VIRGINIA
Department of Health Professions

Board of Social Work
Regulatory Committee
Friday, February 26, 2016, 1:30 p.m.
9960 Mayland Drive, Suite 200
Henrico, VA 23233

1:30 p.m. Call to Order – Bernadette Winters, L.C.S.W., Committee Chair

Roll Call

Emergency Egress Instructions

Adoption of Agenda

Public Comment on Agenda Items (5 Minutes per Speaker)

Approval of Minutes of December 4, 2015

Unfinished Business

- Mid-level licensure
- Clinical Social Work Services
  - Mental Health Skill Building
- Reinstatement/Reactivation
  - Requirements Overview
  - Supervision Review

New Business

Next Meeting

3:30 p.m. Adjournment

THE VIRGINIA BOARD OF SOCIAL WORK
MINUTES
Friday, December 4, 2015

The Virginia Board of Social Work ("Board") meeting convened at 2:05 p.m. on Friday, December 04, 2015 at the Department of Health Professions, 9960 Mayland Drive, Richmond, Virginia. Bernadette Winters, Regulatory Committee Chair called the meeting to order.

BOARD MEMBERS PRESENT: Angelia Allen
Jamie Clancey, L.C.S.W.
Yvonne Haynes, L.C.S.W.
Dolores Paulson, L.C.S.W., Ph.D.
John Salay, L.C.S.W.
Joseph Walsh, L.C.S.W., Ph.D.
Bernadette Winters, L.C.S.W., Ph.D.

BOARD MEMBERS ABSENT: Kristi Wooten

DHP STAFF PRESENT: Christy Evans, Discipline Case Specialist
Sarah Georgen, Licensing Manager
Jaime Hoyle, Executive Director
Jennifer Lang, Deputy Executive Director
Elaine Yeatts, Senior Policy Analyst

MISSION STATEMENT:

Dr. Winters read the mission statement of the Department of Health Professions, which was also the mission statement of the Board.

ROLL CALL:

Dr. Winters requested a roll call. Ms. Georgen announced that seven members of the Board were present; therefore a quorum was established.

EMERGENCY EGRESS:

Dr. Winters announced the Emergency Egress procedures.

ADOPTIONS OF AGENDA:

Dr. Winters suggested that the Committee first discuss clinical social work services followed by mid-level licensure. The agenda was accepted as amended.

PUBLIC COMMENT:

Debra Riggs of the National Association of Social Workers, Virginia Chapter provided written public comment.

Joseph Lynch of the Virginia Society of Clinical Social Work provided written public comment.

APPROVAL OF MINUTES:

Upon a motion by Dr. Walsh, which was properly seconded, the meeting minutes from June 19, 2015 were approved as written.

UNFINISHED BUSINESS:

Dr. Walsh and Mr. Salay provided reports on psychotherapy, as requested at the last Committee meeting. The Committee discussed psychotherapy as it related to the Regulations Governing the Practice of Social Work.

Dr. Paulson made a motion, which was properly seconded, to create a subcommittee to review the research of psychotherapy and present the findings to the Regulatory Committee with a recommendation. The motion failed with two in favor, and five opposed.

Upon further discussion by the Board, Mr. Salay made a motion, which was properly seconded, to recommend to the full board a Notice of Intended Regulatory Action ("NOIRA") to amend and broaden the current definition of clinical social work services such as the addition of psychosocial interventions. The motion passed unanimously.

The Committee discussed mid-level licensure to determine if a separation of requirements was necessary of the Licensed Social Worker license. Ms. Hoyle announced that staff has been working with the Attorney General's office regarding registration of supervision credentials and the board's authority to issue registration of supervision in lieu of mid-level licensure. Ms. Hoyle announced that having the ability to make registrations of supervision public, and having the ability to discipline supervisees, could address some of the issues sought to be remedied through mid-level licensure.

The Committee determined that a subcommittee would be created to discuss mid-level licensure further and provide a report to the Committee at its next meeting. Dr. Winters appointed Mr. Salay, Dr. Paulson, Ms. Haynes and Ms. Clancey to the subcommittee. Mr. Salay requested that board staff provide information in writing from board counsel of how the registration credential would apply to matters of the board.

Dr. Winters opened the floor to discussion of continuing education carry-over hours. Ms. Yeatts reminded the Committee of the proposed regulations set to become effective at the end of 2015 that would change the timeframe of having to report continuing education to even years for annual renewals. The Committee considered the matter resolved.

NEW BUSINESS:

Dr. Winters opened the floor for brief discussion of the requirements for reinstatement or reactivation as it related to the public comment received. Dr. Winters suggested tabling the discussion, as well as "clinical social work services – mental health skill building" until the next Regulatory Committee meeting.

NEXT MEETING:

Dr. Winters announced that the next regularly scheduled full Board meeting would occur on February 26, 2016 at 10:00 a.m.

ADJOURNMENT:

Upon a motion by Dr. Paulson which was properly seconded, the December 04, 2015 meeting was adjourned at 4:06 p.m. The motion passed.

_____
Bernadette Winters, L.C.S.W., Committee Chair

_____
Jaime Hoyle, Executive Director

Re: Comments on Multi Level Licensure to Regulatory Committee

December 4, 2015

On behalf of the NASWVA, the professional association representing more than 3,000 social workers throughout Virginia, I submit these comments on multi level licensure per the request of the Regulatory Committee of the Virginia Board of Social Work.

NASW-VA supports multi tier licensure and believes that careful research needs to be done to ensure that the practice of social work is not negatively impacted by this decision. We would like to highlight a few points regarding this issue:

(1) NASWVA fully supports the ASWB model legislation which includes multitier licensure.
   a. We believe that multi-level licensure will only add to the workforce and the service provided by all of our professionals. By better defining the scope of practice and allowing individuals to select the level of license appropriate both for their scope of practice and to meet the qualifications and requirements of their employers and reimbursement policies multi level licensure will benefit the public and the industry.

(2) Portability is becoming increasingly valuable. NASWVA believes that multi-level licensure will provide our professionals portability and again increase the value of Virginia's workforce.

(3) Integrated Medicine – NASWVA believes that social work is vital to the healthcare continuum and is proven to keep cost lower and ensuring our social workers are adequately reimbursed for their services.

Thank you for your consideration of these comments. NASWVA looks forward to our continued work with the Board of Social Work.

Respectfully Submitted,

Debra A Riggs, CAE
Executive Director, NASWVA

Good Morning Madam Chair and members of the Board. I am Debra Riggs, the Executive Director of NASWVA, the professional association representing more than 3,000 social workers throughout Virginia

As you review the Regulations and Code of Virginia as it pertains to licensing, NASWVA offers the following definition for consideration under the Regulatory Section of "Clinical Social Work Services".

Below is the Definition of Clinical Social Works services in the Clinical Standards of Practice authored by NASW. It states:

Clinical Social Work is the professional application of social work theory and methods to the diagnosis, treatment and prevention of psychosocial dysfunction, disability, or impairment, including emotional, mental, and behavioral disorders.

Clinical social work is broadly based and addresses the needs of individuals, families, couples and groups affected by life changes and challenges, including mental disorders and other behavioral disturbances. Clinical Social Workers seek to provide essential services in the environments, communities, and social systems that affect the lives of the people they serve.

The regulations under Clinical Services presently read:

Clinical social work services include the application of social work principles and methods in performing assessments and diagnoses based on a recognized manual of mental and emotional disorders or a recognized system of problem definition, preventive and early intervention services and treatment services, including but not limited to psychotherapy and counseling for mental disorders, substance abuse, marriage and family dysfunction , and problems caused by social and psychological stress or heath impairment.

Given the above practice definition of Clinical Services in the Standards of Practice document, NASWVA offers for your consideration the definition below

Clinical Social Workers engage in advanced social work practice based on the application of social work theory, knowledge, ethics, and methods to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. The practice of clinical social work requires the application of specialized clinical knowledge and advanced clinical skills in the areas of prevention, assessment, diagnosis, and treatment of mental, emotional, and behavioral and addiction disorders. Treatment methods include the provision of individual, marital, couple, family, and group psychotherapy. The

practice of clinical social work may include private practice, employee assistance and addiction services, and the provision of clinical supervision.

Thank you for your consideration of these comments. NASWVA looks forward to our continued work with the Board of Social Work.

Respectfully Submitted,

Debra A Riggs, CAE
Executive Director, NASWVA

10/20/15

Board of Social Work
Department of Health Professions

I write to the Board of Social Work to request clarification about what constitutes "**clinical social work services**" during the period of supervised practice for Supervisees in Social Work pursuing an LCSW.

I want to make sure that accurate representation of proposed Supervisee in Social Work clinical activities meets requirements of the Board.

This is not specifically in reference to an individual, but rather the Board's standards.

I am aware of the written definitions in regulations and guideline (which are copied below). And, particularly, I refer to the Board of Social Work Regulations 9-26-13 18VAC140-20-10, definition of "clinical social work services", and the Guidance Document 140-10 Supervised Experience for Clinical Social Work Licensure.

Particularly, I would like the Board's view as to whether a proposed activity for a Supervisee in Social Work, particularly "mental health skill building," would meet the standard of "clinical social work service".

To assist consideration of this issue, the following is an excerpt from Medicaid which defines "mental health skill building."

Medicaid Community Mental Health Rehabilitative Services Standards 7/31/15

Mental Health Skill-Building Services (H0046) Service Definition

Mental health skill-building services shall be defined as **goal directed training** to enable individuals to **achieve and maintain community stability and independence** in the most appropriate, least restrictive environment. MHSS shall include **goal directed training** in the following areas in order to qualify for reimbursement: **functional skills** and **appropriate behavior related to the individual's health and safety**; **activities of daily living**, and **use of community resources**; **assistance with medication management**; and **monitoring health, nutrition, and physical condition**. Providers shall be reimbursed only for training activities related to these areas, and only where services meet the revised service definition, service eligibility, and service provision criteria and guidelines as described in the regulations and this manual.

Thank you for your time and attention to this question.

Sincerely,

Ronnie Zuessman, PhD LCP LMFT LPC
rzuessman@pwcgov.org
(347) 267-3170

Board of Social Work Regulations 9-26-13 18VAC140-20-10. Definitions

"**Clinical social work services**" include the application of social work principles and methods in performing **assessments and diagnoses** based on a recognized manual of mental and emotional disorders or recognized system of problem definition, preventive and early intervention services and treatment services, including but not limited to **psychotherapy and counseling for mental disorders**, **substance abuse**, marriage and family dysfunction, and **problems caused by social and psychological stress or health impairment**.

18VAC140-20-50. Experience requirements for a licensed clinical social worker

2. Hours. The applicant shall have completed a minimum of 3,000 hours of supervised post-master's degree experience in the delivery of **clinical social work services**...

b. Supervisees shall average **no less than 15 hours** per 40 hours of work experience in face-to-face client contact for a minimum of 1,380 hours. The remaining hours may be spent in ancillary services supporting the delivery of clinical social work services.

D. Supervisees may not directly bill for services rendered or in any way represent themselves as independent, autonomous practitioners, or licensed clinical social workers. During the supervised experience, supervisees shall use their names and the initials of their degree, and the title "**Supervisee in Social Work**" in all written communications. **Clients shall be informed in writing of the supervisee's status and the supervisor's name, professional address, and phone number**.

Guidance Document 140-10 Supervised Experience for Clinical Social Work Licensure

Clinical social work services as defined in 18VAC140-20-10 includes:

- Performing assessments,
- Diagnosing (based on a recognized manual of mental and emotional disorders or recognized system of problem definition), and
- Providing psychotherapy and counseling (for mental disorders, substance abuse, marriage and family dysfunction, and problems caused by social and psychological stress or health impairment.)

Georgen, Sarah (DHP)

From: Zuessman, Ronnie <RZuessman@pwcgov.org>
Sent: Tuesday, October 20, 2015 12:06 PM
To: Board of Social Work
Cc: Hoyle, Jaime (DHP); Lang, Jennifer (DHP)
Subject: RE: Question for the Board of Social Work
Attachments: Question to Board of Social Work.docx

Sarah
Thank you for facilitating my enquiry.
Attached please find a Word document to submit to the Board for its consideration at the next meeting 10/30/15.
Thank you very much.

Ronnie Zuessman, PhD

Ronnie Zuessman, PhD LCP LPC LMFT
Supervisor
Community Mental Health Services
Prince William County Community Services Board
15941 Donald Curtis Drive, Suite 200
Woodbridge, VA 22191

703-792-7806
RZuessman@pwcgov.org

From: Board of Social Work [mailto:socialwork@dhp.virginia.gov]
Sent: Monday, October 19, 2015 3:40 PM
To: Zuessman, Ronnie
Cc: Hoyle, Jaime (DHP); Lang, Jennifer (DHP)
Subject: RE: Question for the Board of Social Work

Hello Ronnie Zuessman:

In order to facilitate public participation in the process of developing the Regulations, please provide public comment at the next Board meeting on October 30, 2015. You can either provide a written comment prior to the meeting which can be sent to me by mail, fax or email; or provide it verbally at the meeting. Verbal public comment is limited to 5 minutes per speaker. Any additional information should be submitted in written format.

A complete list of Board meeting dates and times are available on the Board of Social Work website at http://www.dhp.virginia.gov/social/social_calendar.htm.

I hope this information was helpful.

Thank you,

Sarah Georgen
Licensing Manager, Board of Social Work
Department of Health Professions

From: Zuessman, Ronnie [mailto:RZuessman@pwcgov.org]
Sent: Friday, October 16, 2015 4:50 PM
To: Board of Social Work
Cc: Hoyle, Jaime (DHP)
Subject: RE: Question for the Board of Social Work

Hello Sarah
Thank you for your prompt response.
I appreciate the restrictions on Board members and staff, and I am not asking for a response from either.
Rather, I am requesting that the issue be considered by the Board as a whole as outlined in the email chain below. This is a far ranging issue as many Supervisees in Social Work are confronted by it and consequently would be of major import for the Board.
Thus, could you please bring to the next full Board meeting the question, does "mental health skill building" meet the standard of "clinical social work service".
I look forward to hearing the outcome.
With appreciation,

Ronnie Zuessman, PhD

Ronnie Zuessman, PhD LCP LPC LMFT
Supervisor
Community Mental Health Services
Prince William County Community Services Board
15941 Donald Curtis Drive, Suite 200
Woodbridge, VA 22191

703-792-7806
RZuessman@pwcgov.org

From: Board of Social Work [mailto:socialwork@dhp.virginia.gov]
Sent: Friday, October 16, 2015 3:43 PM
To: Zuessman, Ronnie
Subject: RE: Question for the Board of Social Work

Hello Ronnie Zuessman:

Board members are not able to answer individual questions, nor speak on behalf of the board as a whole, and Board staff is unable to interpret the Regulations Governing the Practice of Social Work ("Regulations") or the Code of Virginia.

It is the responsibility of the approved licensed clinical social worker supervisor to ensure that the Supervisee in Social Work is receiving "clinical social work services" as defined in the Regulations.

If you would like the Board to consider amending one of its regulations or rules, you may file a "petition for rule-making" available at http://www.dhp.virginia.gov/social/social_laws_regs.htm. You may email the petition to socialwork@dhp.virginia.gov, fax it to (804) 527-4435 or mail it to the Board address listed below.

I hope this information was helpful.

Thank you,

Sarah Georgen
Licensing Manager, Board of Social Work
Department of Health Professions
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233
(804) 367-4441 main line
(804) 527-4435 facsimile

Visit our website: www.dhp.virginia.gov/social

The DHP mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.

From: Zuessman, Ronnie [mailto:RZuessman@pwcgov.org]
Sent: Friday, October 16, 2015 11:41 AM
To: Board of Social Work
Cc: Hoyle, Jaime (DHP)
Subject: Question for the Board of Social Work

Dear Ms Haynes
I write to you regarding the Board of Social Work and some concerns that I have about what constitutes "**clinical social work services**" during the period of supervised practice for Supervisees in Social Work pursuing an LCSW. I want to make sure that accurate representation of proposed Supervisee in Social Work clinical activities meets requirements of the Board.
I am aware of the written definitions in code, regulations, and guideline (which are extracted and copied after the signature on this email).
This is not specifically in reference to an individual, but rather the Board's standards.
Particularly, I would like the Board's view as to whether a proposed activity for a Supervisee in Social Work, such as "mental health skill building", would meet the standard of "clinical social work service".
To further consideration of the issue, I provide an excerpt from Medicaid which defines mental health skill building.

Medicaid Community Mental Health Rehabilitative Services Standards 7/31/15
Mental Health Skill-Building Services (H0046) Service Definition

Mental health skill-building services shall be defined as **goal directed training** to enable individuals to **achieve and maintain community stability and independence** in the most appropriate, least restrictive environment. MHSS shall include **goal directed training** in the following areas in order to qualify for reimbursement: **functional skills** and **appropriate behavior related to the individual's health and safety; activities of daily living** and **use of community resources; assistance with medication management**; and **monitoring health, nutrition, and physical condition**. Providers shall be reimbursed only for training activities related to these areas, and only where services meet the revised service definition, service eligibility, and service provision criteria and guidelines as described in the regulations and this manual.

Thank you for your assistance,

Ronnie Zuessman, PhD

Ronnie Zuessman, PhD LCP LPC LMFT
Supervisor
Community Mental Health Services
Prince William County Community Services Board
15941 Donald Curtis Drive, Suite 200
Woodbridge, VA 22191

703-792-7806
RZuessman@pwcgov.org

BACKGROUND TO SOCIAL WORK LICENSURE CONSIDERATIONS

Code of Virginia § 54.1-3700. Definitions

"Casework" means both direct treatment, with an individual or several individuals, and intervention in the situation on the client's behalf with the objectives of meeting the client's needs, helping the client deal with the problem with which he is confronted, strengthening the client's capacity to function productively, lessening his distress, and enhancing his opportunities and capacities for fulfillment.
"Casework management and supportive services" means assessment of presenting problems and perceived needs, referral services, policy interpretation, data gathering, planning, advocacy, and coordination of services.

Board of Social Work Regulations 9-26-13 18VAC140-20-10. Definitions

"**Clinical social work services**" include the application of social work principles and methods in performing **assessments and diagnoses** based on a recognized manual of mental and emotional disorders or recognized system of problem definition, preventive and early intervention services and treatment services, including but not limited to **psychotherapy and counseling for mental disorders**, **substance abuse**, marriage and family dysfunction, and **problems caused by social and psychological stress or health impairment**.

18VAC140-20-50. Experience requirements for a licensed clinical social worker

2. Hours. The applicant shall have completed a minimum of 3,000 hours of supervised post-master's degree experience in the delivery of **clinical social work services**...
b. Supervisees shall average **no less than 15 hours** per 40 hours of work experience in face-to-face client contact for a minimum of 1,380 hours. The remaining hours may be spent in ancillary services supporting the delivery of clinical social work services.

D. Supervisees may not directly bill for services rendered or in any way represent themselves as independent, autonomous practitioners, or licensed clinical social workers. During the supervised experience, supervisees shall use their names and the initials of their degree, and the title "**Supervisee in Social Work**" in all written communications. **Clients shall be informed in writing of the supervisee's status and the supervisor's name, professional address, and phone number**.

Guidance Document 140-10 Supervised Experience for Clinical Social Work Licensure

Clinical social work services as defined in 18VAC140-20-10 includes:

- Performing assessments,
- Diagnosing (based on a recognized manual of mental and emotional disorders or recognized system of problem definition), and
- Providing psychotherapy and counseling (for mental disorders, substance abuse, marriage and family dysfunction, and problems caused by social and psychological stress or health impairment.)

18VAC140-20-60. Education and experience requirements for licensed social worker

A. ...a bachelor's or a master's degree from an accredited school of social work...

B. An applicant who holds a master's degree may apply for licensure as a licensed social worker without documentation of supervised experience.

C. Bachelor's degree applicant. Supervised experience in all settings obtained in Virginia without prior written board approval will not be accepted toward licensure.

1. Hours. Bachelor's degree applicants shall have completed a minimum of 3,000 hours of supervised post-bachelor's degree experience in **casework management** and **supportive services**...

VSCSW, 10106-C Palace Way
Henrico VA 23238

December 4, 2015

PUBLIC COMMENT TO THE

REGULAORY COMMITTEE OF THE VBSW

I appreciate the opportunity to make public comment to the regulatory committee today. I provided binders with reports and detailed information concerning "psychotherapy" and "mid-level licensure" to the committee in July 2015. The two reports are available on the VSCSW web site http://www.vscsw.org/faq/#154 and I have brought with me today copies of the two reports and a copies of a CD with all of the supporting documentation that is in the binders for anyone who would like those materials.

I want to comment on Dr. Walsh's Memo that I received yesterday. Dr. Walsh notes his *"...concerns about the* (VBSW definition of Clinical Social Work Services) , *with regard to the issue of whether and how "psychotherapy" should be included, is that the terms "psychotherapy" and "counseling" are not defined in the Board's documents..."*

Frequently in my clinical practice in an initial session with a client I find myself asking the question "Why Now?" A client may have been struggling with an issue for many years but one day something triggers an action to seek help with the issue. I find myself asking the same question of Dr. Walsh's concerns. Why now is the VBSW raising question as to both "whether" and "how" the term psychotherapy is included in the VBSW regulations?

- Has there been a complaint from LCSW's about this word?
- Has there been an increase in the number of discipline cases in which a critical issue has been the word "psychotherapy?
- The Virginia Regulatory Town Hall web site provides explanation concerning periodic regulatory review. It states that some of the purposes of executive branch review are:
    - Making sure that regulations are clearly written and easily understandable to the regulated community.
    - Determining if the regulation is essential to protect public health, safety, and welfare.
    - Determining if the regulation is the least burdensome and intrusive regulation possible
      https://www.townhall.virginia.gov/um/faqrulemaking.cfm
- So I raise the questions:
    - Has the VBSW made a determination that the definition of "Clinical social work services" in the regulations is not clearly written and easily understood by the regulated community?
    - Has the VBSW made a determination that the definition of "Clinical social work services" in the regulations is not essential to protect the public health, safety and welfare?

- Has the VBSW made a determination that the definition of "Clinical social work services" in the regulations is not the least burdensome and intrusive regulation possible?

- Dr. Walsh comments *that he does not know one way or the other if it is still the case that insurance companies in Virginia require that psychotherapy be within the scope of practice of clinical social workers in order to be reimbursed by insurance companies.*

The answer to this is an unequivocal Yes; health insurance companies in Virginia still require that psychotherapy be within the scope of practice of clinical social workers in order to be reimbursed by insurance companies. In order for an LCSW to bill an insurance company for services to a client the billing must include a Current Procedural Terminology (CPT) code. According to an NASW publication "Practice Perspectives" the CPT codes a social worker can use are:

- 90832 Psychotherapy, 30 minutes with patient and/or family member.
- 90834 Psychotherapy, 45 minutes with patient and/or family member.
- 90837 Psychotherapy, 60 minutes with patient and/or family member.

http://www.socialworkers.org/assets/secured/documents/practice/clinical/ppnewcodes.pdf

- The Virginia Regulatory process requires that a "…proposed regulation that is new, amended, or repealed must include a statement explaining the basis, purpose, substance and issues of the regulatory action and an Economic Impact Analysis (EIA) prepared by the Department of Planning and Budget (DPB)…"

Virginia Register of Regulations web site http://register.dls.virginia.gov/process.shtml

- I am unclear as to the explanation from the VBSW as to the basis, purpose, substance and issues in regard to changing the definition of "Clinical social work services" in the regulations.

According to the DHP Quarterly Report dated 7/13/15 there were 5,948 LCSW's currently licensed in Virginia. The economic impact of removing the word "psychotherapy" from the VBSW regulations would have catastrophic economic impact on those licensees.

SUMMARY:

- The VSCSW does not see that the VBSW has reason to alter the regulatory definition of "Clinical social work services."
- VSCSW is opposed to altering the definition in regards to the word psychotherapy as any alteration could have the unintended impact of jeopardizing the ability of Virginia LCSW's to be reimbursed by health insurance companies for the critical services they provide to citizens of the Commonwealth.

Virginia Society for Clinical Social Work

July 24, 2015

Virginia Department of Health Professions
Virginia Board of Social Work
Dr. Bernadette Winters, LCSW
Chair, Regulatory Committee
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

Re: Input on: "Psychotherapy" and
"Mid-level" licensure

Dear Dr. Winters:

The Virginia Society for Clinical Social Work appreciates your invitation to send input to the Regulatory Committee on:

1. The use of the word "psychotherapy" in the definition of Clinical Social Work in the VBSW regulations and
2. The concept of "Mid-level" licensing and issues related to that concept.

The VSCSW has gathered information and written a position statement on each topic. When we realized that 6 of the 9 members of the VBSW served on the Regulatory Committee we decided to make enough copies of our materials for each VBSW member and copies for staff. Each binder contains:

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I will attend the August 28, 2015 Regulatory Committee meeting and be available to answer any questions from the committee.

Sincerely,

Joseph G. Lynch LCSW, CSOTP
VSCSW Board of Directors
Legislative Vice President

Virginia Society for Clinical Social Work

REPORT
July 11, 2015
To: Virginia Board of Social Work
"Psychotherapy" in the definition of Clinical Social Work in the VBSW Regulations
Submitted by: Joseph G. Lynch LCSW, CSOTP

VBSW Regulations: 18VAC140-20-10. Definitions.

"Clinical social work services" include the application of social work principles and methods in performing assessments and diagnoses based on a recognized manual of mental and emotional disorders or recognized system of problem definition, preventive and early intervention services and treatment services, ***including but not limited to psychotherapy*** *and counseling for mental disorders, substance abuse, marriage and family dysfunction, and problems caused by social and psychological stress or health impairment.* (Regulations Governing the Practice of Social Work, Virginia Board of Social Work, Title of Regulations: 18 VAC 140-20-10 et seq. Revised Date: September 26, 2013)

INTRODUCTION:

At the meeting of the Regulatory Committee of the Virginia Board of Social Work on June 19, 2015 the Chair (Bernadette Winters) invited NASW VA and VSCSW to submit information to the committee prior to the August 28, 2015 committee meeting on the use of the term "Psychotherapy" in the definition of Clinical Social Work Services in the regulations of the VBSW. This report is in response to that invitation.

HISTORICAL CONTEXT:

In order to understand the use of the word "psychotherapy" in the definition of "Clinical Social Work" in the VBSW regulations it is necessary to review briefly the historical context of both:

1. The establishment of licensing of social workers in Virginia and
2. Vendorship- Meaning the authorization by the Code of Virginia for LCSW's to bill and collect directly from insurance companies for services rendered.

1. The establishment of licensing of social workers in Virginia

Chapter 28 Code of Virginia established the Professional Board of the Virginia Board of Social Work in 1976. The VBSW was one of three Professional Boards that sent representatives to form the Virginia Board of Behavioral Sciences. The two other Professional Boards were the Virginia Board of Psychology and the Virginia Board of Professional Counselors. These boards were housed in the Department of Profession and Occupation Regulation (DPOR). At some point in the early 1980's the boards were moved to the Department of Health Professions as independent health regulatory boards.

In 1976 LCSW's were not authorized by the Code of Virginia to directly submit billing to insurance companies for the delivery of psychotherapy services. The LCSW needed to establish a relationship with a physician – usually a psychiatrist- in which the physician would "sign-off" for the services delivered by the LCSW. The physician was paid a fee by the LCSW for this service. Some characterized this fee as a "kickback."

LCSW's advocated for the right to bill insurance companies directly for the psychotherapy services they delivered. In 1982 the Virginia Chapter of NASW formed the Committee to Achieve Parity (CAP) that was co-chaired by Joseph G. Lynch LCSW and Dr. Titus Bender LCSW. Over a five year period NASW VA advocacy efforts were successful and House Bill 1078 was passed in the 1987 Virginia General Assembly session specifically naming Clinical Social Workers as non-physician practitioners who were to be directly paid by insurance companies for the services they delivered.

See attached

1. NASW VA Resolution of Appreciation and
2. The Code of Virginia §38.2-4221

This legislation enabled LCSW's to bill for the services they provided. However there was substantial resistance from the insurance industry. One of the ways that insurance companies resisted was to deny coverage of a claim based on the rationale that the policy contained language that said they would cover "psychotherapy" and the insurance company noted that the regulations of the VBSW did not specify that "psychotherapy" was included in the Scope of Practice of Clinical Social Workers.

LCSW's continued to advocate for the insurance company to cover claims submitted by LCSW's. This advocacy was again successful in that the VBSW revised their regulations with the effective date April 4, 2001 to have the word "psychotherapy" added to the definition of "Clinical Social Work" for the first time. * *The regulations have been revised 23 times since 1980. No version of the VBSW regulations prior to 2001 contained the word "psychotherapy" in the definitions section of the regulations. Just prior to 2001 the regulations were revised in 1997 and did not contain the word "psychotherapy.

DEFINITIONS OF CLINICAL SOCIAL WORK:

The definition of "Clinical Social Work" has been developed by:

- Social Work Regulatory bodies
- Clinical Social Work practitioners & Professional Associations and
- Social Work academic faculty through publication of social work literature,

There is not uniform agreement on the definition of Clinical Social Work but there is substantial similarity among the definitions developed by the three different groups. Below is a review of some of the definitions from the groups.

1. ASSOCIATION OF SOCIAL WORK BOARDS

The Association of Social Work Boards is a critical member of the Social Work Regulatory community: *The Association of Social Work Boards (ASWB) is the nonprofit organization composed of and owned by the social work regulatory boards and colleges of 49 U.S. states, the District of Columbia, the U.S. Virgin Islands, and all 10 Canadian provinces…. Our mission is to strengthen protection of the public by providing support and services to our member boards. ASWB owns and maintains the social work licensing examinations that are used to test a social worker's competence to practice ethically and safely…The association developed and maintains a* ***model practice act*** *that offers regulatory bodies a resource for developing their own laws and regulations…* -
Bold and underline added -https://www.aswb.org/about/

The ASWB model practice act defines the Practice of Clinical Social Work as follows:

> ***Section 106. Practice of Clinical Social Work.***
>
> *The practice of Clinical Social Work is a specialty within the practice of Master's Social Work and requires the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. The practice of Clinical Social Work requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis and treatment of mental, emotional, and behavioral disorders, conditions and addictions. Treatment methods include the provision of individual, marital, couple, family and group counseling and* ***psychotherapy.*** *The practice of Clinical Social Work may include private practice and the provision of clinical supervision.*
> (ASSWB Model Social Work Practice Act-page 6- bold and underline added)

ASWB provides exams for five levels of licensure based on the Practice Analysis. The exam categories are:

> ***Associate****–A few jurisdictions administer the Bachelors Examination to candidates who do not have degrees in social work for an Associate license. A lower passing score is used.*
>
> ***Bachelors–****The examination intended for use by individuals with a baccalaureate degree in social work.*
>
> ***Masters–****The examination that is intended for individuals who hold an MSW degree, but who do not have post-degree supervision.*
>
> ***Advanced Generalist****–The Advanced Generalist exam is designed for advanced practitioners who do more macro-level, generalist, administrative or management work. It is one of two exams intended to be taken by social workers with an MSW or higher degree, plus the required postgraduate supervised experience.*
>
> ***Clinical****–The Clinical exam has more emphasis on the provision of direct, micro-level mental health services. It is the second of two exams (along with the Advanced Generalist) intended to be taken by social workers with an MSW or higher degree, plus the required postgraduate supervised experience. The Advanced Generalist and clinical examinations are considered on par due to the advanced level of* practice knowledge and experience expected of someone taking either exam. But they each emphasize different areas of practice as noted in their descriptions.

ASWB has compiled the *Social Work Laws & Regulations Comparison Guide* that provides information on each social work regulatory board's requirements for licensure (See attached). Of the 63 social work regulatory boards listed 45 include the word "Clinical" in the title of the license and if the word "Clinical" is in the title then the applicant must take the Clinical exam. Of the remaining boards 4 use the title "Certified" and 5 use the title "Independent" and require the Clinical exam. Some boards use combinations of Clinical, Independent and Certified. The title "Licensed Masters Social Worker" appears in the regulations of 26 boards and 21 of those require the applicant to take the "Masters" exam.

2. NATIONAL ASSOCIATION OF SOCIAL WORKERS (NASW)

The National Association of Social Workers (NASW) is the largest membership organization of professional social workers in the world, with 132,000 members. NASW works to enhance the professional growth and development of its members, to create and maintain professional standards, and to advance sound social policies. http://www.socialworkers.org/nasw/default.asp

One of the standards developed by NASW is "*NASW Standards for Clinical Social Work in Social Work Practice.*" In the "Introduction" section it notes "psychotherapy" as part of the definition of Clinical Social Work:

INTRODUCTION

Clinical social workers represent the largest group of behavioral health practitioners in the nation. They are often the first to diagnose and treat people with mental disorders and various emotional and behavioral disturbances. Clinical social workers are essential to a variety of client-centered settings, including community mental health centers, hospitals, substance use treatment and recovery programs, schools, primary health care, centers, child welfare agencies, aging services, employee assistance programs, and private practice settings.

Clinical social work has a primary focus on the mental, emotional, and behavioral well-being of individuals, couples, families, and groups. It centers on a holistic approach to ***psychotherapy*** *and the client's relationship to his or her environment. Clinical social work views the client's relationship with his or her environment as essential to treatment planning. Clinical social work is a state-regulated professional practice. It is guided by state laws and regulations.*
https://www.socialworkers.org/practice/standards/clinical_sw.asp

3. THE AMERICAN BOARD OF EXAMINERS IN CLINICAL SOCIAL WORK (ABE)

The American Board of Examiners in Clinical Social Work (ABE), founded in 1987, is a national certification board created by and for the profession of Clinical Social Work. It is the credentialing unit of the Center for Clinical Social Work, a national education and advocacy organization.

Clinical Social Work Described

The flexible and skillful application of knowledge, theories, and methods in a bio-psychosocial approach is a hallmark of clinical social work. Interventions—the direct person-to-person(s) process—are conducted with people of all ages and range in nature from preventive, crisis, and psycho-educational services to collaborative client advocacy and brief and long-term counseling or ***psychotherapy.*** *Typically, clinical social workers supervise and consult with professional colleagues and may engage in indirect practice (e.g. administration, research, teaching, writing). It is a standard of practice for clinical social workers to engage in career-long continuing clinical education and to adhere to a professional code of ethics. https://www.abecsw.org/about-abe.html*

SUMMARY:

From the information above it is clear that:

- The national professional associations of NASW, the ASWB and ABE all include the word "psychotherapy" in their definition or description of Clinical Social Work.
- That the history of the development of Clinical Social Work licensure and vendorship in Virginia to include the word "psychotherapy" in the definition of Clinical Social Work was hard fought for by advocacy of NASW VA and by individual Clinical Social Workers.
- That the word "psychotherapy" being in the definition of Clinical Social Work in the VBSW regulations gives legal justification to psychotherapy being within the "Scope of Practice" of Clinical Social Work and thus allows for LCSW's to bill insurance companies directly for the services they provide and to earn an income.

For all of these reasons the Virginia Society for Clinical Social Work strongly encourages the Virginia Board of Social Work to take no actions that in any way change the definition of Clinical Social Work in the VBSW regulations concerning the word "psychotherapy."

Virginia Society for Clinical Social Work

REPORT
July 11, 2015
To: Virginia Board of Social Work
"Mid-level" licensure
Submitted by: Joseph G. Lynch LCSW, CSOTP

INTRODUCTION:

At the meeting of the Regulatory Committee of the Virginia Board of Social Work on June 19, 2015 the Chair (Bernadette Winters) invited NASW VA and VSCSW to submit information to the committee prior to the August 28, 2015 committee meeting on the topic of "Mid-level" licensure. This report is in response to that invitation.

"MID-LEVEL LICENSURE:

The term "Mid-level" licensure is not easily defined. Few articles in the professional literature use the term and there are few references to the term found on the professional association web sites. A more common term is "multi-tiered" licensure. "Multi-tiered" suggest that social work licensing be developed in a way that recognizes multi-levels or tiers of licensure. ASWB is a proponent of this and clearly identifies the levels in their Model Practice Act. Also the ASWB Practice Analysis delineates different exams that are associated with different levels. The ASWB levels are:

> ***Associate***–*A few jurisdictions administer the Bachelors Examination to candidates who do not have degrees in social work for an Associate license. A lower passing score is used.*
>
> ***Bachelors–****The examination intended for use by individuals with a baccalaureate degree in social work.*
>
> ***Masters–****The examination that is intended for individuals who hold an MSW degree, but who do not have post-degree supervision.*
>
> ***Advanced Generalist***–*The Advanced Generalist exam is designed for advanced practitioners who do more macro-level, generalist, administrative or management work. It is one of two exams intended to be taken by social workers with an MSW or higher degree, plus the required postgraduate supervised experience.*
>
> ***Clinical***–*The Clinical exam has more emphasis on the provision of direct, micro-level mental health services. It is the second of two exams (along with the Advanced Generalist) intended to be taken by social workers with an MSW or higher degree, plus the required postgraduate supervised experience. The Advanced Generalist and clinical examinations are considered on par due to the advanced level of practice knowledge and experience expected of someone taking either exam. But they each emphasize different areas of practice as noted in their descriptions.* https://www.aswb.org/about/

The ASWB Model Practice Act identifies three levels of social work practice:

1. Baccalaureate Social Worker
2. Master's Social Worker
3. Clinical Social Worker

Under the Code of Virginia ***§ 54.1-3705. Specific powers and duties of the Board*** the Virginia Board of Social Work (VBSW) is granted authority "…To designate specialties within the profession…" The VBSW regulations identify two specialties:

1. Licensed Social Worker (LSW) and
2. Licensed Clinical Social Worker (LCSW)

In email communication with Ms. Jennifer Henkel, MSSW, LCSW, Director of Member Services for ASWB, she reported the following:

> *"Based on my conversations with Sarah Georgen, I believe that Virginia's mid-level licensure and the Licensed Master's Social Worker (LMSW) are the same. The LMSW is what is used in the ASWB Model Practice Act."* (July 1, 2015)

So ASWB views the VBSW LSW-Master's Degree licensee- as the same as the LMSW.

The ASWB Model Practice Act also speaks to "Independent Practice" of Social Work as follows:

> ***Section 306. Independent Practice.***
> *No Baccalaureate or Master's Social Worker licensed under Section 302 or Section 303 shall engage in Independent Practice until such time that the social worker shall have worked in a supervised setting for a specified period of time and under terms and conditions set by the Board.*
>
> ***Commentary by ASWB on Section 306. Independent Practice***.
> *Independent practice in the Licensed Baccalaureate Social Worker or Licensed Master's Social Worker categories should not be construed as private practice, in which Clinical Social Workers accept fees for service from clients or third party payers on the client's behalf. LBSW and LMSW social workers are not qualified to conduct the diagnosis and treatment of mental illness, or provide psychotherapy services, although LMSW social workers may provide some clinical services under supervision by a Clinical Social Worker.*

VIRGINIA BOARD OF HEALTH PROFESSIONS:

The Virginia Board of Health Professions has developed a guidance document titled *Policies and Procedures for the Evaluation of the Need to Regulate Health Occupations and Professions.* This document established criteria to guide evaluations of the need for regulation of health occupations and professions. It seems prudent that if the VBSW were to consider establishing a new level of licensure that it do so in light of the guidance from these criteria. The criteria are listed below along with comments from VSCSW.

VIRGINIA BOARD OF HEALTH PROFESSIONS **CRITERIA FOR EVALUATING THE NEED FOR REGULATION** Initially Adopted October, 1991 Readopted February, 1998	**VSCSW** **COMMENTS ON CRITERA** **AS THEY RELATE TO ESTABLISHING ANY NEW "MID-LEVEL"** **SOCIAL WORK LICENSE**
Criterion One: Risk for Harm to the Consumer The unregulated practice of the health occupation will harm or endanger the public health, safety or welfare. The harm is recognizable and not remote or dependent on tenuous argument. The harm results from: (a) practices inherent in the occupation, (b) characteristics of the clients served, (c) the setting or supervisory arrangements for the delivery of health services, or (d) from any combination of these factors.	**Criterion One: Risk for Harm to the Consumer** According to ASWB the VBSW already has established a mid-level license with the LSW-Master's Degree licensee. Thus there is no need for a new license as this level of practice is already regulated by the VBSW.
Criterion Two: Specialized Skills and Training The practice of the health occupation requires specialized education and training, and the public needs to have benefits by assurance of initial and continuing occupational competence.	**Criterion Two: Specialized Skills and Training** With the VBSW LSW license the public already has the benefits of initial and continuing occupational competence. Thus there is no need for a new license as this level of practice is already regulated by the VBSW.
Criterion Three: Autonomous Practice The functions and responsibilities of the practitioner require independent judgment and the members of the occupational group practice autonomously.	**Criterion Three: Autonomous Practice** The ASWB Model Practice Act recommends that the "mid-level" practitioner be under supervision and "*should not be construed as private practice.*" Thus there is no need for a new license as this level of practice is not designed for autonomous independent practice.
Criterion Four: Scope of Practice The scope of practice is distinguishable from other licensed, certified and registered occupations, in spite of possible overlapping of professional duties, methods of examination, instrumentation, or therapeutic modalities	
Criterion Five: Economic Impact The economic costs to the public of regulating the occupational group are justified. These costs result from restriction of the supply of practitioner, and the cost of operation of regulatory boards and agencies.	
Criterion Six: Alternatives to Regulation There are no alternatives to State regulation of the occupation which adequately protect the public. Inspections and injunctions, disclosure requirements, and the strengthening of consumer protection laws and regulations are examples of methods of addressing the risk for public harm that do not require regulation of the occupation or profession.	
Criterion Seven: Least Restrictive Regulation When it is determined that the State regulation of the occupation or profession is necessary, the least restrictive level of occupational regulation consistent with public protection will be recommended to the Governor, the General Assembly and the Director of the Department of Health Professions.	

§ 38.2-4221. Services of certain practitioners other than physicians to be covered.

A. A nonstock corporation shall not fail or refuse, either directly or indirectly, to allow or to pay to a subscriber for all or any part of the health services rendered by any doctor of podiatry, doctor of chiropody, optometrist, optician, chiropractor, professional counselor, psychologist, physical therapist, clinical social worker, clinical nurse specialist who renders mental health services, audiologist, speech pathologist, certified nurse midwife, marriage and family therapist or licensed acupuncturist licensed to practice in Virginia, if the services rendered (i) are services provided for by the subscription contract and (ii) are services which the doctor of podiatry, doctor of chiropody, optometrist, optician, chiropractor, professional counselor, psychologist, physical therapist, clinical social worker, clinical nurse specialist who renders mental health services, audiologist, speech pathologist, certified nurse midwife, marriage and family therapist or licensed acupuncturist is licensed to render in this Commonwealth.

B. If a subscription contract provides reimbursement for a service that may be legally performed by a licensed pharmacist, reimbursement under the subscription contract by the nonstock corporation shall not be denied because the service is rendered by the licensed pharmacist provided that (i) the service is performed for a subscriber for a condition under the terms of a collaborative agreement, as defined in § 54.1-3300, between a pharmacist and the physician with whom the subscriber is undergoing a course of treatment or (ii) the service is for the administration of vaccines for immunization. Notwithstanding the provisions of § 38.2-4209, the nonstock corporation may require the pharmacist, any pharmacy or provider that may employ such pharmacist, or the collaborating physician to enter into a written agreement with the nonstock corporation as a condition for reimbursement for such services. In addition, reimbursement to pharmacists acting under the terms of a collaborative agreement under this subsection shall not be subject to the provisions of § 38.2-4209.1.

(Code 1950, § 32-195.10:1; 1966, c. 276, § 38.1-824; 1973, c. 428; 1979, cc. 13, 721; 1980, c. 682; 1986, c. 562; 1987, cc. 549, 551, 557; 1988, c. 522; 1989, cc. 7, 201; 1997, c. 203; 1998, c. 146; 2001, cc. 102, 475.)

Chapter 37 of Title 54.1 of the Code of Virginia

Social Work

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§ 54.1-3700. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Administration" means the process of attaining the objectives of an organization through a system of coordinated and cooperative efforts to make social service programs effective instruments for the amelioration of social conditions and for the solution of social problems.

"Board" means the Board of Social Work.

"Casework" means both direct treatment, with an individual or several individuals, and intervention in the situation on the client's behalf with the objectives of meeting the client's needs, helping the client deal with the problem with which he is confronted, strengthening the client's capacity to function productively, lessening his distress, and enhancing his opportunities and capacities for fulfillment.

"Casework management and supportive services" means assessment of presenting problems and perceived needs, referral services, policy interpretation, data gathering, planning, advocacy, and coordination of services.

"Clinical social worker" means a social worker who, by education and experience, is professionally qualified at the autonomous practice level to provide direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.

"Consultation and education" means program consultation in social work to agencies, organizations, or community groups; academic programs and other training such as staff development activities, seminars, and workshops using social work principles and theories of social work education.

"Group work" means helping people, in the realization of their potential for social functioning, through group experiences in which the members are involved with common concerns and in which there is agreement about the group's purpose, function, and structure.

"Planning and community organization" means helping organizations and communities analyze social problems and human needs; planning to assist organizations and communities in organizing for general community development; and improving social conditions through the application of social planning, resource development, advocacy, and social policy formulation.

"Practice of social work" means rendering or offering to render to individuals, families, groups, organizations, governmental units, or the general public service which is guided by special knowledge of social resources, social systems, human capabilities, and the part conscious and unconscious motivation play in determining behavior. Any person regularly employed by a licensed hospital or nursing home who offers or renders such services in connection with his employment in accordance with patient care policies or plans for social services adopted pursuant to applicable regulations when such services do not include group, marital or family

therapy, psychosocial treatment or other measures to modify human behavior involving child abuse, newborn intensive care, emotional disorders or similar issues, shall not be deemed to be engaged in the "practice of social work." Subject to the foregoing, the disciplined application of social work values, principles and methods includes, but is not restricted to, casework management and supportive services, casework, group work, planning and community organization, administration, consultation and education, and research.

"Research" means the application of systematic procedures for the purpose of developing, modifying, and expanding knowledge of social work practice which can be communicated and verified.

"Social worker" means a person trained to provide service and action to effect changes in human behavior, emotional responses, and the social conditions by the application of the values, principles, methods, and procedures of the profession of social work.

(1976, c. 608, § 54-941; 1979, c. 398; 1981, c. 555; 1988, c. 765.)

§ 54.1-3701. Exemption from requirements of licensure.

The requirements for licensure provided for in this chapter shall not be applicable to:

1. Persons who render services that are like or similar to those falling within the scope of the classifications or categories in this chapter, so long as the recipients or beneficiaries of such services are not subject to any charge or fee, or any financial requirement, actual or implied, and the person rendering such service is not held out, by himself or otherwise, as a licensed practitioner.

2. The activities or services of a student pursuing a course of study in social work in an institution recognized by the Board for purposes of licensure upon completion of the course of study or under the supervision of a practitioner licensed under this chapter; if such activities or services constitute a part of his course of study and are adequately supervised.

3. The activities of rabbis, priests, ministers or clergymen of any religious denomination or sect when such activities are within the scope of the performance of their regular or specialized ministerial duties, and no separate charge is made or when such activities are performed, whether with or without charge, for or under auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination or sect, and the person rendering service remains accountable to its established authority.

4. Persons employed as salaried employees or volunteers of the federal government, the Commonwealth, a locality, or of any agency established or funded, in whole or part, by any such governmental entity or of a private, nonprofit organization or agency sponsored or funded, in whole or part, by a community-based citizen group or organization. Any person who renders psychological services, as defined in Chapter 36 (§ 54.1-3600 et seq.) of this title, shall be subject to the requirements of that chapter. Any person who, in addition to the above enumerated

employment, engages in an independent private practice shall not be exempt from the requirements for licensure.

5. Persons regularly employed by private business firms as personnel managers, deputies or assistants so long as their counseling activities relate only to employees of their employer and in respect to their employment.

(1976, c. 608, § 54-944; 1986, c. 581; 1988, c. 765.)

§ 54.1-3702. Administration or prescription of drugs not permitted.

This chapter shall not be construed as permitting the administration or prescribing of drugs or in any way infringing upon the practice of medicine as defined in Chapter 29 (§ 54.1-2900 et seq.) of this title.

(1976, c. 608, § 54-945; 1988, c. 765.)

§ 54.1-3703. Board of Social Work; members.

The Board of Social Work shall regulate the practice of social work.

The Board shall be composed of nine nonlegislative citizen members appointed by the Governor, seven of whom shall be licensed social workers who have been in active practice of social work for at least five years prior to appointment and two of whom shall be nonlegislative citizen members at large. The terms of the members of the Board shall be four years.

(1976, c. 608, § 54-942; 1981, cc. 447, 555; 1986, c. 464; 1988, cc. 42, 765; 2006, c. 685.)

§ 54.1-3704. Nominations.

Nominations for professional members may be made from a list of at least three names for each vacancy submitted to the Governor by the Virginia Chapter of the National Association of Social Workers and by the Virginia Society for Clinical Social Work. The Governor may notify such organizations of any professional vacancy other than by expiration. In no case shall the Governor be bound to make any appointment from among the nominees.

(1986, c. 464, § 54-942.1; 1988, c. 765.)

§ 54.1-3705. Specific powers and duties of the Board.

In addition to the powers granted in § 54.1-2400, the Board shall have the following specific powers and duties:

1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.

2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.

3. To designate specialties within the profession.

4. Expired.

(1976, c. 608, §§ 54-929, 54-931; 1983, c. 115; 1986, cc. 64, 100, 464; 1988, c. 765; 1994, c. 778.)

§ 54.1-3706. License required.

In order to engage in the practice of social work, it shall be necessary to hold a license.

(1979, c. 408, § 54-943.1; 1988, c. 765.)

§ 54.1-3707. Licenses continued.

All licenses heretofore issued by the Board of Social Work and its predecessors shall continue in effect, and be renewable under this chapter.

(1976, c. 608, § 54-943; 1988, c. 765.)

§ 54.1-3708. Continuing education requirements.

The Board shall establish in regulations requirements for the continuing education of licensed social workers.

The Board may approve persons who provide continuing education or accredit continuing education programs in order to accomplish the purposes of this section.

(1999, c. 575.)

§ 54.1-3709. (Effective July 1, 2013) Unlawful designation as social worker.

A. It shall be unlawful for any person not licensed under this chapter to use the title "Social Worker" in writing or in advertising in connection with his practice unless he simultaneously uses clarifying initials that signify receiving a baccalaureate or master's degree in social work from an accredited social work school or program approved by the Council on Social Work Education or a doctorate in social work.

B. If a complaint or report of a possible violation of this section is made against any person who is licensed, certified, registered, or permitted, or who holds a multistate licensure privilege issued by any of the health regulatory boards within the Department of Health Professions, that complaint shall be referred to the applicable board within the Department for disciplinary action. A violation of this section shall be a Class 1 misdemeanor.

C. Notwithstanding the provisions of this section, any individual meeting the qualifications provided for in 42 C.F.R. Part 483 may practice as a "qualified social worker" in any licensed nursing home using such title. However, any such individual may only use the title "social worker" in connection with the activities of the nursing home.

D. Notwithstanding the provisions of this section, any individual meeting the qualifications provided for in 42 C.F.R. § 418.114(b) (3) may practice as a "social worker" in any licensed hospice using such title. However, any such individual may only use the title "social worker" in connection with the activities of the hospice.

E. That nothing in this act shall be construed as requiring the Department of Social Services, or any other entity, to hire licensed social workers or social workers with a baccalaureate or master's degree in social work from an accredited social work school or program approved by the Council on Social Work Education or a doctorate in social work.

(2011, c. 794.)

Association of Social Work Boards

model social work practice act

Model Law Task Force, 1996 - 1997
with amendments, 1998 - 2012

Contents

ASWB Model Practice Act

Introduction

The Association of Social Work Boards Model Social Work Practice Act was formally adopted by the AASSWB (now ASWB) Delegate Assembly at its Annual Meeting in the fall of 1997. As a fluid document and a resource to the ASWB member boards, the Model Act has been modified on several occasions through actions of the Delegate Assembly. Historically, the Model Act was the result of two years of intensive work by an eight-member Model Law Task Force created in 1996. At that time, ASWB was operating under its previous name, the American Association of State Social Work Boards (AASSWB). The current name of the association was adopted by the Delegate Assembly at its Annual Meeting in the fall of 1999.

During its development, extensive input for the Model Act was solicited from social work regulatory boards, social work professional organizations, credentialing groups, and accrediting bodies. The numerous comments received by ASWB helped to inform the development of this comprehensive model designed to assist legislatures and boards in addressing social work regulation.

The purpose of the ASWB Model Act is simple: to provide a resource to legislatures and social work boards when addressing issues related to the public protection mission of regulating the practice of social work. Informed by a national perspective, the Model Act establishes standards of minimal social work competence, methods of fairly and objectively addressing consumer complaints, and means of removing incompetent and/or unethical practitioners from practice. Social work boards can better protect the public when they have access to resources, such as the ASWB Model Act, that reflect current issues in professional regulation.

Consistent with the mission of ASWB and its member boards, the public is well-served by the actual implementation of the Model Act in the laws of individual jurisdictions. For example, the Model Act facilitates greater standardization of terminology and regulation from jurisdiction to jurisdiction. Greater standardization promotes increased public understanding of social work, and increased mobility for qualified social workers increasing the public protection benefits of increased understanding of social work practice and greater access to vital mental health practitioners and services. Standardization also promotes consistency in legal decisions related to licensure, renewal, discipline and other board activities.

The ASWB Model Act was also strengthened by its own limits. It was drafted as a resource to member boards and legislatures to promote public protection through regulation of social work practice, leaving professional promotion and related issues to professional associations, societies, credentialing organizations and other membership groups. The ASWB Model Social Work Practice Act addresses protection of the public first and foremost.

The ASWB Model Practice Act was created by members of a Model Law Task Force, a diverse group that included social workers from various practice settings as well as regulatory board administrators and legal consultants. The Task Force met several times over a two year period and confronted many challenging issues during the development process. Of course, input from other stakeholders on various drafts of the document also helped guide the discussions and provide many diverse perspectives. The public protection mission of ASWB and its member boards provided the basis for all ultimate decisions.

ASWB made every attempt to provide a document that is beneficial to the social work regulatory community. The language used throughout the Act represents an attempt to promote uniformity to regulation and terminology. Member boards are encouraged to review and use the Model Act within the context of regulatory and language issues that may be unique to each respective jurisdiction. The Association understands that modifications may be necessary to address existing regulatory, legal, cultural, and political climates.

ASWB acknowledges and thanks the members of the Task Force, commenting stakeholders, and member boards for their valuable input and participation in developing, adopting and continual review and modification of the Model Act. As a resource for its membership, ASWB sincerely believes that the Model Act provides a calculated, uniform perspective that promotes public protection through regulation.

ASWB has a mechanism for the orderly submission, review and Delegate Assembly participation and approval of suggested modification to the Model Act. The ASWB Regulation and Standards Committee (RASC), formerly the Discipline and Regulatory Standards Committee (DARS), is charged with reviewing suggested modifications to the Act submitted by member boards and committees of the Association. RASC also has the ongoing charge of the continuous review of the Model Act to ensure it maintains contemporary application to social work regulation. Suggestions and discussion are encouraged in order to ensure a document that is current and responsive to the needs of the ASWB membership.

Notes on the Text

The text of the ASWB Model Social Work Practice Act is presented in two columns: the left column contains the text of the Model Act and the right column contains comments to the text of the Act. Comments are also shaded for clarity. The text of regulations is italicized. Readers are encouraged to review the comments to the Model Act as a way of understanding the rationale of the various provisions.

Article I. Title, Purpose, and Definition.

Introductory Comment to Article I

ASWB believes that the public interest must be the central precept of any professional regulatory act and its administration, and that regulatory boards must constantly strive to ensure that this basic principle is upheld. These beliefs are clearly articulated in the Model Social Work Practice Act ("Act").

Article I of the Model Social Work Practice Act establishes the foundation upon which the Act is constructed. This article clearly states that safeguarding the public interest is the most compelling reason for regulating the practice of social work, and identifies the activities included within the practice of social work. Definitions of other terms used throughout the Act are also included in this article.

An ACT concerning the regulation of the practice of social work and related matters.

Be it enacted…

Section 101. Title of Act.

This Act shall be known as the "(Name of state or other jurisdiction) Social Work Practice Act."

Section 102. Legislative Declaration.

The practice of social work in the _____ of _____ is declared a professional practice affecting the public health, safety, and welfare and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of social work, as defined in this Act, merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of social work in the _____ of _____. This Act shall be liberally construed to carry out these objectives and purposes.

Section 102. Legislative Declaration.

Social work is a learned profession affecting public health and welfare and should be declared as such by the Legislature.

Section 103. Statement of Purpose.

It is the purpose of this Act to promote, preserve, and protect the public health, safety, and welfare by and through the effective control and regulation of the practice of social work; the licensure of social workers; the licensure, control and regulation of persons, in or out of this state that practice social work within this state.

Section 103. Statement of Purpose.

The Statement of Purpose defines the general scope of the Social Work Practice Act. It reflects the basic principles that a Board must have full knowledge of the social worker practicing social work within its jurisdiction, and must effectively protect the public through regulation. This section provides for the regulation of the practice of social work and the licensure of social workers engaged in this practice, and also stipulates that the regulation of the practice of social work is extended to all social workers practicing in the jurisdiction, regardless of the actual place of residency.

Section 104. Practice of Baccalaureate Social Work.

Subject to the limitations set forth in Article III, Section 306, the practice of Baccalaureate Social Work means the application of social work theory, knowledge, methods, ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. Baccalaureate Social Work is basic generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, counseling, supervision, consultation, education, advocacy, community organization, and the development, implementation, and administration of policies, programs and activities.

Section 104. Practice of Baccalaureate Social Work.

The definition of the practice of social work is one of the most important—and most-discussed—clauses in the ASWB Model Act. Social work has been a very dynamic profession, particularly over the past several years, and any definition of practice needs to contain a degree of flexibility that will allow the Board to make necessary adjustments from time to time to meet a changing health care environment, an evolving practice, and the ongoing needs of consumers. The definitions in sections 104, 105, and 106 are purposely broad in order to provide substantial latitude to the Board in the adoption and implementation of rules. However, the definitions do identify three practice categories—Baccalaureate Social Workers, Master's Social Workers, and Clinical Social Workers—with each category containing its own definition and range of acceptable activities at entry level. The rules process would function as an important tool in the Board's efforts to adapt the definitions to the needs of its jurisdiction, since any new or amended rules that the Board may implement would be promulgated within the requirements of the jurisdiction's Administrative Procedures Act, and would afford all interested parties an opportunity to provide review and comment.

Each practice category includes provisions for independent practice, but the requirements for independent status vary, as does the acceptable range of activities that may be undertaken in each category. Under Article III, Section 306, both the Master's Social Workers and the Baccalaureate Social Workers are authorized to engage in independent practice [as defined in Article I, Section 108(q)], after completing two (2) years of full time supervised practice.

There are no exemptions to social work licensure in the Model Act, except for students currently participating in an approved Social Work program, when completing an internship, an externship, or other social work experience requirements for such programs. Exempting any social worker or group of social workers from regulatory oversight is contrary to the purpose of the Act as stated in Section 103.

As stated in the Introduction to the Act, "A model social work practice act must be concerned with the protection of the public first and foremost". If social workers' practice is beyond the purview of legal regulation through licensing, the public will have less recourse to protection from or remedies for incompetent or harmful practice.

The Model Act is intended to serve as an ideal to which all jurisdictions should aspire. Exempting certain groups of social work practitioners from regulatory oversight may shift the focus from the values, skills and responsibilities that social workers and the social work profession have in common to differences in categories of practice. In order to adequately ensure public protection, there must be a minimum level of value, skill and responsibility for all who practice social work or who call themselves social workers.

The definitions of practice at the Baccalaureate, Master's, and Clinical levels include lists of activities in which social workers engage. Accordingly, social workers whose employment or position entails any or all of these activities must maintain a valid social work license authorizing that particular scope of practice. Therefore, based on the definitions of practice, examples of positions that require social workers to maintain a license include, but are not limited to:

- Social work services in government
- Case Managers
- Program Evaluators
- Supervisors
- Social Service Administrators
- Social Work Educators
- Community Organizers
- Policy Makers
- Researchers

Section 105. Practice of Master's Social Work.

Subject to the limitations set forth in Article III, Section 306, the practice of Master's Social Work means the application of social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. Master's Social Work practice includes the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, counseling, supervision, consultation, education, research, advocacy, community organization and the development, implementation, and administration of policies, programs and activities. Under supervision as provided in this act, the practice of Master's Social Work may include the practices reserved to Clinical Social Workers.

Section 106. Practice of Clinical Social Work.

The practice of Clinical Social Work is a specialty within the practice of Master's Social Work and requires the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. The practice of Clinical Social Work requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis and treatment of mental, emotional, and behavioral disorders, conditions and addictions. Treatment methods include the provision of individual, marital, couple, family and group counseling and psychotherapy. The practice of Clinical Social Work may include private practice and the provision of clinical supervision.

Section 106. Practice of Clinical Social Work.

Clinical social workers are qualified to use the *Diagnostic and Statistical Manual of Mental Disorders* (DSM), the *International Classification of Diseases* (ICD), and other diagnostic classification systems in assessment, diagnosis, and other activities.

Section 107. Electronic Practice

(a) The practice of Baccalaureate Social Work, Master's Social Work, or Clinical Social Work to an individual in this jurisdiction through telephonic, electronic, or other means, regardless of the location of the practitioner shall constitute the practice of social work and shall be subject to regulation under this Act.

(b) The practice of Baccalaureate Social Work, Master's Social Work, or Clinical Social Work by a practitioner in this jurisdiction through telephonic, electronic, or other means, regardless of the location of the client shall constitute the practice of social work and shall be subject to regulation under this act.

Section 107. Electronic Practice

Many factors, including technological advancements, increase the likelihood of the practice of social work across jurisdictional lines. While federal legislation or the judiciary may have the final word on regulating professions across jurisdictional lines, this section is designed to specifically address the issue of where practice takes place. ASWB adopts the position that social work practice through electronic means takes place in both the jurisdiction where the client is receiving such services (irrespective of the location of the practitioner) and in the jurisdiction where the practitioner is located at the time of providing such services (irrespective of the location of the client).

ASWB recognizes that social work practice via telephonic and electronic means is becoming an increasing reality in the health care and behavioral science fields. ASWB affirms the premise that in-person client contact is the most effective and preferred method of providing client assessment, treatment, and appropriate referral services. The provision of social work services through telephonic and electronic means shall constitute social work practice as defined in the statute. Social work practice other than in-person service is limiting to both the practitioner and client. Therefore, all parties providing and utilizing telephonic, teleconference, and Internet electronic social work services should exercise extreme caution in determining whether such practice is the appropriate vehicle for competent and ethical social work practice.

Because the Board's mission is to protect the public in its jurisdiction, the Act is intended to provide Board authority over practitioners (regardless of their location) providing services to clients within its borders as well as practitioners providing service from within its borders (regardless of the location of clients).

ASWB reaffirms the increasing need for regulation that will address electronic practice. The Model Law Task Force recognized that telepractice issues demand further attention, and recommended that these issues continue to be examined.

Section 108. Applicability of Terms.

(a) Except as otherwise provided in this Act, reference to the practice of social work shall be applicable to the practice of Baccalaureate Social Work, Master's Social Work, and Clinical Social Work.

(b) Except as otherwise provided in this Act, reference to the term social work shall include Baccalaureate Social Work, Master's Social Work, and Clinical Social Work.

Section 109. Definitions.

(a) Approved Clinical Supervisor means a licensed clinical social worker who has met the qualifications to be a clinical supervisor as determined by the Board.

(b) Approved Provider of Continuing Education means an individual, group, professional association, school, institution, organization, or agency approved by the Board to conduct educational program(s).

Section 109(b). Definitions.

See comment to Section 213(a)(4), Section 309(b) and section 310 regarding the role in the approval process of programs and providers.

(c) Approved Social Work Program means a school of social work or a social work educational program that has been approved by the Board.

(d) Baccalaureate Social Worker means a person duly licensed to practice Baccalaureate Social Work.

(e) Board or Board of Social Work means the Board of Social Work created under this Act.

(f) 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.

(g) Client means the individual, couple, family, group, organization, or community that seeks or receives social work services from an individual social worker or an organization. Client status is not dependent on billing or payment of fees for such services.

(h) Clinical Social Worker means a person duly licensed to practice Clinical Social Work under this Act.

(i) 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.

Section 109(i). Definitions.

Supervisors are legally and ethically accountable for the practice of their supervisees. While providing their supervisees with support, education, and administrative assistance in developing competence, supervisors must maintain their paramount focus on the quality of services that clients are receiving from licensees. The Model Law's emphasis on the supervisory relationship as the context for providing evaluation and direction means that supervisors of licensees must be ready to direct interventions on behalf of clients' best interests even when

such directions could require that supervisors override the decisions, judgment or interests of the licensee. (In contrast to supervision, consultation does not carry this degree of legal and ethical accountability since by definition the suggestions offered by consultants are intended for licensees to use or not use as the licensees judge best.)

(j) Continuing Education means education and training which are oriented to maintain, improve or enhance social work practice.

(k) Continuing Education Contact Hour means a sixty (60) minute clock hour of instruction, not including breaks or meals.

(l) Consultation means a problem solving process in which expertise is offered to an individual, group, organization or community.

Section 109(l). Definitions.

See comment on Section 109(i)

(m) Conviction means conviction of a crime by a court of competent jurisdiction and shall include a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered on admission of guilt, a no contest plea, a plea of nolo contendere, and a guilty plea.

(n) 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.

(o) Examination means a standardized test or examination of social work knowledge, skills and abilities approved by the Board.

(p) Felony means a criminal act as defined by this state or any other state or by definition under federal law.

(q) Final Adverse Action means any action taken or order entered by the board, whether through a consent agreement, as the result of a contested hearing, issued through a letter of reprimand/admonition/warning, or other action against a licensee, applicant or individual which is public information under applicable law and which impacts the licensure status or record, practice status or record, or other related practice privileges. Final Adverse Actions include, in addition to the above and without limitations, denial of licensure applications, denial of licensure renewal applications, and surrender of licensure. Board actions or orders are Final Adverse Actions irrespective of any pending appeals. To the extent applicable, Final Adverse Actions under this statute are intended to encompass, at a minimum, all actions that require

reporting to state or federal authorities, including but not limited to the Healthcare Integrity Protection Databank (HIPDB)/National Practitioners Data Bank (NPDB).

(r) Independent Practice means practice of social work outside of an organized setting, such as a social, medical, or governmental agency, in which the social worker assumes responsibility and accountability for services provided.

(s) Licensee means a person duly licensed under this Act.

(t) Master's Social Worker means a person duly licensed to practice Master's Social Work.

(u) Private Practice means the provision of clinical social work services by a licensed clinical social worker who assumes responsibility and accountability for the nature and quality of the services provided to the client in exchange for direct payment or third-party reimbursement.

(v) Program of Continuing Education means an educational program offered by an Approved Provider of Continuing Education.

(w) 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 assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions.

(x) 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 109(w). Definitions.

See comment on Section 109(i)

Article II. Board of Social Work.

Introductory Comment to Article II

The state's first step in regulating the practice of social work is the establishment of a way in which the regulations will be administered—the creation of the Board. Article II of the Act defines and creates the Board by specifying elements necessary to its formation, organization, and operation. Each section in this article covers elements that ASWB considers necessary to the proper formation and efficient operation of the Board. Several of these sections, especially those containing innovative or infrequently used provisions, are supplemented by explanatory comments.

One of the most important guiding principles of this Article, and in fact the Act as a whole, is the philosophy that the public is best served when statutes focus on general areas, and provide a framework within which the Board develops rules that effectively respond to the regulatory needs in that jurisdiction. It is impossible for legislatures to enact comprehensive provisions dealing with all the matters with which a Board may be confronted, or to somehow legislatively anticipate the changing conditions of the professions and the delivery of mental health and social services. Statutes are the best way to articulate the overarching values and intent of regulation, but are extremely impractical tools for responding to public needs in a timely way. Statutes should create goals, guidelines, and policies in general areas, and allow the Board to provide specifics in its rules. Consequently, ASWB recommends that Boards be granted adequate power to adopt and amend rules with the greatest possible flexibility and autonomy. Section 212 of the Act is designed to accomplish this objective.

Among the sections of Article II that may be of particular interest are Sections 202 and 203(b), pertaining to the inclusion of public members as Board members; Section 207, which provides ground and procedures for removal of Board members; and Section 213(b)(2), which enables Boards to utilize research and study grants and other funds without having to deposit these funds in general revenue accounts.

Section 201. Designation.

The responsibility for enforcement of the provisions of this Act is hereby vested in the Board of Social Work (Board). 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 such other duties, powers, and authority as it may be granted from time to time by applicable law.

Section 202. Membership.

The Board shall consist of _____ members, [_____ of whom shall be a representative of the public, and the remainder] [each] of whom shall be social workers, who possess the qualifications specified in Section 203. The Board shall at all times be comprised of an equal number of Baccalaureate Social Workers, Master's Social Workers and Clinical Social Workers.

Section 202. Membership.

The number of Board members should be determined by each individual jurisdiction according to its particular requirements. Individual jurisdictions may wish to consider Board composition that reflects the diversity of practice environments and interests within their borders. Variable factors such as population, number of social workers, and other local considerations, may all be relevant in determining the number of Board members needed to most effectively enforce the Act. In the event a jurisdiction prefers to limit Board membership to currently licensed social workers, the bracketed language pertaining to a public member should be deleted, as should Section 203(b). In this event the alternative "each" should be selected, and Section 203(a) should be renumbered as Section 203.

ASWB believes public representation on social work regulatory boards is extremely important, and recommends an adequate number of consumer members be included. The inclusion of public members is an effective way to ensure that the public is being adequately served and protected by the Board.

Section 203. Qualifications.

(a) Each social worker member of the Board shall at all times as a board member:

Section 203(a). Qualifications.

Section 203(a) of the Act requires that a social worker be engaged in the practice of social work at the time of appointment as a Board member and have at least one (1) year of experience out of the last five (5) years in the practice of social work prior to appointment. Because the practice of social work is defined in Sections 104, 105, and 106 in broad terms, a social worker engaged in almost any element of practice would be eligible for appointment. This provision helps to ensure the development of candidates who have a wide range of backgrounds and experiences, and who are knowledgeable in the affairs of the profession. Further, equal representation on the Board by Baccalaureate, Master's, and Clinical Social Workers adds to this diversity.

(1) Be a resident of this state;

(2) Be currently licensed and in good standing to engage in the practice of social work in this state;

(3) At the time of appointment, have been actively engaged in the practice of social work, for at least one (1) out of the last five (5) years; and

(4) Have at least three (3) years of experience in the practice of social work.

(b) Public member(s) of the Board shall be residents of this state who have attained the age of majority and shall not be, nor shall ever have been a Baccalaureate Social Worker, Master's Social Worker or Clinical Social Worker, or the spouse thereof, or a person who

Section 203(b). Qualifications.

Specific qualifications for the public member(s) have been deliberately omitted from this section. Reliance has been placed on the

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

Governor to determine what attributes an individual should possess in order to meaningfully serve on a Board. In order to assure that such a member would be truly independent in judgments, those who have a possible substantial relationship with the profession are rendered ineligible by this section.

Section 204. Appointment.

The Governor shall appoint the members of the Board in accordance with other provisions of this Article and the state constitution.

Section 205. Terms of Office.

(a) Except as provided in subsection (b), members of the Board shall be appointed for a term of _____years, except that members of the Board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve the unexpired portion of such term.

(b) The terms of the members of the Board shall be staggered. Each member shall serve until a successor is appointed and qualified.

(1) The present members of the Board shall serve the balance of their terms.

(2) Any present Board member appointed initially for a term of less than _____ years shall be eligible to serve for two (2) consecutive full terms.

(c) No member of the Board shall serve more than two (2) consecutive full terms. The completion of the unexpired portion of a full term shall not constitute a full term for purposes of this section.

Section 206. Vacancies.

Any vacancy which occurs in the membership of the Board for any reason, including expiration of term, removal, resignation, death, disability, or disqualification, shall be filled by the Governor in the manner prescribed by Section 204.

Section 207. Removal.

(a) A Board member may be removed pursuant to the procedures set forth in subsection (b) herein, upon one or more of the following grounds

Section 207(a). Removal.

In certain jurisdictions, there may be general statutory provisions that establish the procedures and grounds for the removal of appointed public officials.

(1) The refusal or inability for any reason of a Board member to perform the duties as a

member of the Board in an efficient, responsible, and professional manner;

(2) The misuse of office by a member of the Board to obtain pecuniary or material gain or advantage personally or for another through such office;

(3) The violation by any member of the laws governing the practice of social work; or

(4) For other just and reasonable causes as determined solely by the Board pursuant to applicable law.

(b) Removal of a member of the Board shall be in accordance with the Administrative Procedures Act of this state, or other applicable laws.

Section 208. Organization.

(a) The Board shall elect from its members a Chairperson and such other officers as it deems appropriate and necessary to the conduct of its business. The Chairperson shall preside at all meetings of the Board and shall be responsible for the performance of all of the duties and functions of the Board required or permitted by this Act. Each additional officer elected by the Board shall perform those duties customarily associated with the position and such other duties assigned from time to time by the Board.

(b) Officers elected by the Board shall serve terms of one (1) year commencing with the day of their election and ending upon election of their successors and shall serve no more than three (3) consecutive full terms in each office to which they are elected.

(c) The Board shall employ an Executive Director to serve as a full-time employee of the Board. The Executive Director shall be responsible for the performance of the administrative functions of the Board and such other duties as the Board may direct.

Section 208(c). Organization.

ASWB urges that every Board have an Executive Director to perform and supervise the administrative functions for which the Board is responsible on a daily basis. The responsibilities of the Executive Director should include the hiring of necessary staff to fulfill the responsibilities of the Board.

Section 209. Compensation of Board Members.

Each member of the Board shall receive as compensation the sum of $_____ per day for each day on which the member is engaged in performance of the official duties of the Board, and shall be reimbursed for all reasonable and necessary expenses incurred in connection with the discharge of such official duties.

Section 210. Meetings.

(a) The Board shall meet at least once every three (3) month(s) to transact its business. The Board shall meet at such additional times as it may determine. Such additional meetings may be called by the Chairperson of the Board or by two-thirds (2/3) of the members of the Board.

(b) The Board shall meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting and shall not be changed after such notice is given without adequate prior notice.

(c) Notice of all meetings of the Board shall be given in the manner and pursuant to requirements prescribed by the Administrative Procedures Act.

(d) A majority of the members of the Board shall constitute a quorum for the conduct of a Board meeting and, except where a greater number is required by this Act or by any rule of the Board, all actions of the Board shall be by a majority of a quorum.

(e) All Board meetings and hearings shall be open to the public. The Board may, in its discretion and according to law, conduct any portion of its meeting in executive session, closed to the public.

Section 210(a). Meetings.

ASWB strongly recommends that social work boards meet at least four times per year. This is a minimum standard that would help boards maintain an adequate level of efficiency and responsiveness.

Section 210(e). Meetings.

Many legislatures have adopted "sunshine" laws that provide for open meetings. Section 210(e) may not be necessary or may need revisions to ensure that the use of executive session complies with these laws.

Section 211. Employees.

The Board may, in its discretion, employ persons in addition to the Executive Director in such other positions or capacities as it deems necessary to the proper conduct of Board business and to the fulfillment of the Board's responsibilities as defined by the Act.

Section 211. Employees.

Professional staff and consultants employed by the Board may be social workers. Boards may wish to consider whether investigators must be social workers.

Section 212. Rules.

The Board shall make, adopt, amend, and repeal such rules as may be deemed necessary by the Board from time to time for the proper administration and enforcement of this Act. Such rules shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act.

Section 212. Rules.

The authority of a Board to adopt, amend, and repeal rules is an extremely important power. ASWB encourages Boards to fully exercise this authority by adopting rules to more specifically set forth regulatory issues. This not only enhances the protection of the public, but also benefits the Board when it becomes necessary to interpret the Act. Further, rules help to maintain consistency in the application of the Act as membership on the Board changes through the appointment process.

Section 213. Powers and Responsibilities.

(a) The Board shall be responsible for the control and regulation of the practice of social work in this state including, but not limited to, the following:

(1) The licensing by examination or by licensure transfer 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 shall be eligible for licensure in this state, and the specification and enforcement of requirements for practical training;

Section 213(a)(4). Powers and Responsibilities.

Language in this section places responsibility with the Board for establishing the standards under which it will recognize and approve the social work education programs attended by licensure candidates. ASWB strongly recommends that Boards retain this responsibility.

Although many jurisdictions have statutes or rules stating approved or accredited degree programs of school or colleges of social work are those approved by the Council on Social Work Education (CSWE), ASWB believes Boards should consider the potential consequences of such provisions. Regardless of the quality or reputation of an outside organization, it is crucial that Boards recognize the risks involved in taking any action that could be construed as improper delegation of power to private entities.

It is a well-established rule of administrative law that any delegation of governmental power must carry with it appropriate limitations and procedural safeguards for affected individuals. Given this principle, a direct, unequivocal grant of the accreditation function to a private organization such as CSWE might be deemed an unauthorized, improper, and invalid delegation of Board or legislative authority. There are multiple judicial opinions in which a court overturned a Board action based on what was deemed to be an invalid delegation to a private body. [e.g., see *Garces v. Department of Registration and Education,* 254 N.E.2d 622 (Ill.App., 1969).]

Here as elsewhere in the Act, the Board's use of its rules can play an important role. After

being granted the authority to approve social work programs, the Board may then adopt in its rules the Standards of Accreditation established from time to time by CSWE.

(5) The enforcement of those provisions of the Act relating to the conduct or competence of social workers practicing in this state, investigation of any such activities related to the practice or unauthorized practice of social work, and the suspension, revocation, or restriction of 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 statute or rule enforced by the Board, the Board may issue an order directing the applicant or licensee to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this section, every applicant or licensee is considered to have consented to submit to a mental or physical examination or chemical dependency evaluation when ordered to do so in writing by the Board and to have waived all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that the testimony or reports constitute a privileged communication;

Section 213(a)(6). Powers and Responsibilities.

This section allows a Board to order a mental or physical examination or chemical dependence evaluation upon a showing of probable cause. This power should be used judiciously, only when the Board has reason to believe that there may be a connection between a mental or physical condition and the alleged conduct. This power is necessary to ensure to the public that an applicant or licensee's ability to practice social work safely and competently is not impaired.

(7) The collection of professional demographic data;

(8) The issuance and renewal of licenses of all persons engaged in the practice of social work; and

(9) 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.

(b) The Board shall have such other duties, powers, and authority as may be necessary to the enforcement of this Act and to the enforcement of Board rules made pursuant thereto, which shall include, but are not limited to, the following:

(1) The Board may join 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 and/or whose activities assist and facilitate the work of the Board.

(2) The Board may receive and expend funds, in addition to its [annual/biennial] appropriation, from parties other than the state, provided:

(i) Such funds are awarded for the pursuit of a specific objective which the Board is authorized to accomplish by this Act, or which the Board is qualified to accomplish by reason of its jurisdiction or professional expertise;

(ii) Such funds are expended for the pursuit of the objective for which they are awarded;

(iii) Activities connected with or occasioned by the expenditures of such funds do not interfere with the performance of the Board's duties and responsibilities and do not conflict with the exercise of the Board's powers as specified by this Act.

(iv) Such funds are kept in a separate, account; and

(v) Periodic reports are made concerning the Board's receipt and expenditure of such funds.

(3) The Board may establish a Bill of Rights for clients concerning the services a client may expect in regard to social work services.

Section 213(b)(3). Powers and Responsibilities.

This provision allows for the creation of a client Bill of Rights. A Bill of Rights establishes what a client may expect when obtaining social work services. Customarily, the Bill of Rights contains a set of client expectations that would be translated into standards of professional practice, and/or codes of conduct for the social worker.

If a Board chooses to establish a Bill of Rights, the Bill must be consistent with standards of practice codes of ethics, and regulations that the Board has adopted under the Social Work Practice Act. Boards need to be careful to avoid inadvertently expanding the role and responsibilities of the social worker through a Bill of Rights.

(4) Any investigation, inquiry, or hearing which the Board is empowered to hold or undertake may be held or undertaken by or before any member or members of the Board and the

finding or order of such member or members shall be deemed to be the order of said Board when approved and confirmed as noted in Section 210(d).

(5) It is the duty of the Attorney General [State's Attorney] to whom the Board reports any violation of this Act which also is deemed as violative of applicable criminal statutes to cause appropriate proceedings to be instituted in the proper court in a timely manner and to be prosecuted in the manner required by law. Nothing in this paragraph shall be construed to require the Board to report violations whenever the Board believes that public's interest will be adequately served in the circumstances by a suitable written notice or warning.

(6) 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, and any other oaths authorized in any Act administered by the Board.

(7) In addition to the fees specifically provided for herein, the Board may assess additional reasonable fees for services rendered to carry out its duties and responsibilities as required or authorized by this Act or Rules adopted hereunder. Such services rendered shall include but not be limited to the following:

(i) Issuance of duplicate certificates or identification cards;

(ii) Mailing lists, or reports of data maintained by the Board;

(iii) Copies of any documents;

(iv) Certification of documents;

(v) Notices of meetings;

(vi) Licensure transfer;

(vii) Examination administration to a licensure applicant;

(viii) Examination materials.

(8) Cost Recovery.

(i) If any order issues in resolution of a disciplinary proceeding before the Board, the Board may request the (ALJ/HO) to direct any licensee found guilty of a charge involving a violation of any laws or rules, to pay to the Board a sum not to exceed the reasonable costs of the investigation and prosecution of the case.

(ii) In the case of an Agency, the order permissible under (i) above may be made as to the corporate owner, if any, and as to any social worker, officer, owner, or partner of the Agency who is found to have had knowledge of or have knowingly participated in one or more of the violations set forth in this section.

(iii) The costs to be assessed shall be fixed by the (ALJ/HO) and shall not be increased by the Board; where the Board does not adopt a proposed decision and remands the case to a(n) (ALJ/HO), the (ALJ/HO) shall not increase any assessed costs.

(iv) Where an order for recovery of costs is made and timely payment is not made as directed in the Board's decision, the Board may enforce the order for payment in the _____ Court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the Board may have as to any person directed to pay costs.

(v) In any action for recovery of costs, proof of the Board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(9) Except as otherwise provided to the contrary, the Board shall exercise its duties, powers, and authority in accordance with the Administrative Procedures Act.

(c) Notwithstanding any other law to the contrary, the board shall, on a timely basis, publicize Final Adverse Actions ultimately determined against any individual. Publication of such Final Adverse Actions shall include, but not be limited to, reporting to any applicable federal or state repository of final disciplinary actions. The board shall also timely report to any databank Final Adverse Actions maintained by an association of which the board is a member.

Section 213(b)(8). Powers and Responsibilities.

The ALJ/HO used through this section refers to the terms "administrative law judge" or "hearing officer" as determined by individual jurisdictions.

Article III. Licensing.

Introductory Comment to Article III

Article III of the Act sets out the requirements for initial licensure of social workers, as well as licensure transfer and renewal. As in other parts of the Act, this Article establishes basic criteria, and delegates the authority for implementing those criteria to the Board. The Board exercises this authority by utilizing appropriate enforcement mechanisms and issuing specific rules. For example, in the area of initial licensure, the Act would be implemented by the Board's approval of social work degree programs, specifications of the examination to be used, and establishment of all other prerequisites that must be met by each applicant to whom it issues a license.

This article, as well as the entire Act, also reflects ASWB's efforts to develop and continue uniform standards for the transfer of licensure. The social work profession has become increasingly mobile, and Boards need to examine the ways in which differing standards between jurisdictions may be affecting the public's access to qualified social workers.

Section 301. Unlawful Practice.

(a) Except as otherwise provided in this Act, it shall be unlawful for any individual to engage in the practice of Baccalaureate Social Work unless duly licensed as a Baccalaureate Social Worker under the applicable provisions of this Act.

Section 301. Unlawful Practice.

Section 301 establishes the basis for this Article by making it unlawful for any unlicensed person to engage in the practice of social work, and by enabling the Board to exact penalties for unlawful practice.

Boards are often confronted with the problem of preventing unlicensed individuals from engaging in one or more facets of social work practice. Most practice acts do not give the Board jurisdiction and authority to take action against individuals other than those who are licensed or seeking licensure. Thus, Boards must rely on the difficult task of persuading local prosecutors to take criminal action against persons not licensed to practice social work. This gap in jurisdictional authority makes it difficult to effectively prevent unlicensed practitioners from engaging in illicit practice.

Language in this section clearly allows Boards the authority to control unlicensed practice. The regulation of the practice of social work, including jurisdiction over unlicensed practice in the profession, has a reasonable and rational relation to public health, safety, and welfare. See, e.g., *State v. Wakeen*, 57N.W.2d 364 (Wis., 1953). cf. *State v. VanKeegan*, 113 A. 2d 141 (Conn., 1955), and *Williamson v. Lee Optical of Oklahoma*, 348 U.S. 483 (1955). For this reason, vesting power in the Board to regulate illicit practice would not appear to violate constitutional due process requirements. Because monetary fines are not generally considered criminal sanctions, it can be strongly argued that there are no constitutional barriers that would restrict the impositions of fines by a Board. See, e.g., *Helvering v. Mitchell*, 303 U.S. 376 (1938); *City of Waukegan v. Pollution Control Board*, 311 N.E.2d 146 (Ill., 1974); *County Council for Montgomery County v. Investors Funding Corp.*, 312 A.2d 225 (Md.,

1973); and *Roday v. Hollis*, 500 P. 2d 97 (Wash., 1972).

As stated in the comments to Article I, Sections 104, 105, and 106, there are no exemptions to licensure in the Model Act except for students currently participating in an Approved Social Work Program when completing an internship, externship, or other social work experience requirements for such programs.

(b) Except as otherwise provided in this Act, it shall be unlawful for any individual to engage in the practice of Master's Social Work unless duly licensed as a Master's Social Worker under the applicable provisions of this Act.

(c) Except as otherwise provided in this Act, 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 the applicable provisions of this Act.

(d) No individual shall offer social work services or use the designation Social Worker, Licensed Baccalaureate Social Worker, Licensed Master's Social Worker, Licensed Clinical Social Worker or the initials LBSW, LMSW, or LCSW or any other designation indicating licensure status or hold themselves out as practicing social work as a Baccalaureate Social Worker, Master's Social Worker, or Clinical Social Worker unless duly licensed as such.

Section 301(d). Unlawful Practice.

This Act is not intended to prevent other licensed professionals from practicing within other "allied scopes." However, it is important to recognize the social work title, and link this name recognition to licensed social workers. This link protects the public through an assurance that there is regulatory consistency associated with the social work identity.

(e) Any individual who, after hearing, shall be found by the Board to have unlawfully engaged in the practice of social work shall be subject to a fine to be imposed by the Board not to exceed $_____ for each offense. Each such violation of this Act or the rules promulgated hereunder pertaining to unlawfully engaging in the practice of social work shall also constitute a _____(misdemeanor) punishable upon conviction as provided in the criminal code of this state.

(f) Nothing in this Act shall be construed to prevent members of other professions from performing functions for which they are duly licensed. However, such other professionals must 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.

(g) Students currently participating in an Approved Social Work Program are exempt from licensure under this Act when completing internship, externship, or other social work experience requirements for such programs.

(h) (1) An individual currently licensed and in good standing to practice social work in another jurisdiction may, upon prior written application to and approval by the Board, practice social work in this jurisdiction within the scope of practice designated by such license no more than 30 days per year without applying for a license. Practice privileges under this paragraph shall apply only if the requirements for a license in such other jurisdiction are substantially similar to the requirements for licensure in this jurisdiction. The 30-day period shall commence on the date of approval by the Board of the written application. The practitioner who provides services under this paragraph shall be deemed to have submitted to the jurisdiction of the applicable board and be bound by the laws of this state.

Section 301(h)(1). Telepractice.

With the advent of technological advancements leading to increased mobility of practitioners and practice itself, it may be prudent to anticipate and address practice by practitioners not physically located within the jurisdiction. Rather than attempting to define "telepractice" or create a limited license to address out-of-state practitioners, it is recommended that legislatures address these technologically driven practice issues through a temporary practice approach. This temporary practice language is intended to address sporadic practice within the jurisdiction irrespective of whether it is electronically rendered or rendered in person. The privilege of practicing temporarily (no more than 30 days per year) is only granted to individuals duly licensed to practice social work in another jurisdiction. Based upon the uniformity in accredited educational programs and the ASWB national examinations, it is perceived that minimum competence in one jurisdiction is reasonably equated to minimum competence in another jurisdiction. Furthermore, practice privileges apply to such individuals only if the requirements for licensure in the jurisdiction of licensure are substantially similar to the requirements for licensure in this jurisdiction.

Because of the different designations of licensure, this language also limits the scope of practice to such practice designated by the jurisdiction of licensure. That is, the temporary practice must be limited to the scope of practice designated by the jurisdiction of licensure.

By design, the language of the temporary practice references a "written application" to be submitted to the Board prior to engaging in practice under this section. It is up to each individual board to determine the extent of the application and whether the board will actually "approve" the ability to practice or merely maintain a file on the individual for future reference.

The 30-day period is also, by design, left to the interpretation of a board whether such period is consecutive or how the 30-day period is to be determined.

Finally, practitioners providing services under this temporary practice privilege are deemed to have submitted to the jurisdiction of the applicable board and agree to be bound by the laws thereof. It is recommended that the written application as determined by the board contain various language

which verifies the submission of the individual to the jurisdiction and the applicability of the laws of the jurisdiction. It is believed that this process provides solutions to legal issues confronting alternatives which attempt to address telepractice. It provides the boards with important information as to who is practicing (through the written application). It also provides the Board with appropriate waivers relative to jurisdiction and the applicability of the laws of the jurisdiction. Finally, it provides a privilege which can be removed by the Board through the disciplinary process, reported to the databank, and, if laws allows, an eventual impact upon the actual license in the jurisdiction of licensure.

(2) (a) In response to a disaster or emergency declared by the appropriate authority or governor of the state, an individual currently licensed and in good standing to practice social work in another jurisdiction who is providing social work services within the scope of practice designated by such license and whose professional licenses in all other disciplines are current and in good standing may, upon prior written notice to the Board and without otherwise applying for a license, provide such services in this jurisdiction for the time said emergency or disaster declaration is in effect. Individuals exercising rights under this Section 301 (h)(2) shall be deemed to have submitted themselves to the jurisdiction of the applicable board or state agency and to be bound by the laws of this state in addition to other applicable laws by virtue of licensure status in other states.

(b) Individuals who have at any time surrendered any professional license under threat of administrative disciplinary sanction or in response to administrative investigation, or have any professional license currently under suspension, revocation, or agency order restricting or limiting practice privilege, with the exception of expired or lapsed licenses due to voluntary non renewal of such license, are ineligible to practice under this Section 301 (h)(2).

Section 301(h)(2). Unlawful Practice.

See comments to 301(h)(1) relative to the overall rationale for temporary practice and the applicability of jurisdictional and other legal issues. Similar rationale applies to this particular section as well. In addition, temporary practice in the case of a declared disaster is not limited to prior written application but upon written notice to the Board. Furthermore, the time period for temporary practice under a declared disaster is limited to 60 consecutive days.

Again, this provides the Board with valuable information as to who is practicing within the jurisdiction in the event of a reported complaint or wrongdoing. Written notice can be determined by the Board, but it is suggested it be limited to a simple statement as to the fact that a disaster has been declared, the individual is practicing relative to the disaster, submits him/herself to the jurisdiction and will abide by the applicable laws of the jurisdiction. It is not anticipated any such notice will be subject to approval by the Board, thus eliminating the time consuming board approval process due to the emergency nature of the situation.

Section 302. Qualifications for Licensure by Examination as a Baccalaureate Social Worker.

(a) To obtain a license to engage in the practice of Baccalaureate Social Work, an applicant for licensure by examination must provide evidence satisfactory to the Board, subject to Section 311, that the applicant:

(1) Has submitted a written application in the form prescribed by the Board;

(2) Has attained the age of majority;

(3) Is of good moral character. As one element of good moral character, the board shall require each applicant for licensure to submit a full set of fingerprints for the purpose of obtaining state and federal criminal records checks, pursuant to *[insert reference to authorizing state statute]* and applicable federal law. The *[state agency responsible for managing fingerprint data e.g. the department of public safety]* may submit fingerprints to and exchange data with the Federal Bureau of Investigation. All good moral character information, including the information obtained through the criminal records checks, shall be considered in licensure decisions to the extent permissible by all applicable laws.

Section 302(a)(3). Qualifications for Licensure by Examination as a Baccalaureate Social Worker.

Legislatures have generally agreed that "good moral character" is a proper requirement for licensure of social workers. Defining precisely what constitutes good or bad character has caused health regulatory boards and courts considerable difficulty, and a review of applicable case law reveals a considerable variance in the judicial opinions concerning the interpretation of good character requirements. Nevertheless, the courts have uniformly enforced such requirements, reasoning that because health regulatory boards are composed primarily of members of the profession being regulated, they are capable of applying character standards to their professions with relevance and specificity.

While specific character requirements may vary from jurisdiction to jurisdiction, and may even appear to vary from case to case, the purpose of these requirements remains constant. The public has the right to expect the highest degree of integrity from members of the social work profession. Boards have a duty to ensure that these expectations are realized. From this perspective, requirements of good moral character for licensure can be expected to be sustained by the courts so long as their enforcement is reasonably related to protection of the public health, safety, and welfare.

As past behavior can provide a means of predicting future behavior, criminal records checks are often required by boards. Criminal records information is generally relevant to moral character. By requiring submission of this information, the board will be in a much more informed position to make licensure eligibility determinations.

In order to receive criminal records checks, each jurisdiction should ensure that the regulatory board has the requisite state/provincial statutory authority to allow the board to directly receive criminal records reports from the state (e.g. DCII) or federal agency (e.g. Federal Bureau of Investigation (FBI) or the Royal Canadian Mounted Police (RCMP)). The statutory language contained in this model is drafted so as to comply with U.S. law which requires that the statutory language specifically reference the use of fingerprinting and provide notice as to the authority by which the board is entitled to directly receive such information from the FBI. Similar statutory references may be necessary in the

Canadian Provinces. Boards are advised to consult with their board legal counsel to determine the statutory language necessary to provide the board with authority to require criminal records checks in their respective jurisdictions.

Even when grounded in public protection, issues involving moral character may lead to concerns about the potential for this qualification to be misused by Boards. Although there are many legal ways to ensure that the good moral character issue is not misapplied, including state and federal civil rights legislation, Boards need to be extremely sensitive to character judgments made. Practice act provisions that bear a reasonable relationship to the purpose of protecting the public welfare will generally be regarded as constitutionally acceptable by most courts, so long as the enforcement by boards is reasonably related to the protection of the public.

(4) Has graduated and received a baccalaureate degree in social work from an Approved Social Work Program;

Section 302(a)(4). Qualifications for Licensure by Examination as a Baccalaureate Social Worker.

ASWB anticipates that Boards will approve those programs whose standards are at least equivalent to the minimum standards required by the Council on Social Work Education, including college structured externship programs. See Comment to Section 213(a)(4) for a discussion of the Board's role in the accreditation process.

(5) Has successfully passed an examination or examinations prescribed by the Board; and

(6) Has paid all applicable fees specified by the Board relative to the licensure process.

Section 303. Qualifications for Licensure by Examination as a Master's Social Worker.

(a) To obtain a license to engage in the practice of Master's Social Work, an applicant for licensure by examination must provide evidence satisfactory to the Board, subject to Section 311, that the applicant:

(1) Has submitted a written application in the form prescribed by the Board;

(2) Has attained the age of majority;

(3) Is of good moral character. As one element of good moral character, the board shall require each applicant for licensure to submit a full set of fingerprints for the purpose of obtaining state and

Section 303(a)(3). Qualifications for Licensure by Examination as a Master's Social Worker.

See comments on Section 302(a)(3) above.

federal criminal records checks, pursuant to *[insert reference to authorizing state statute]* and applicable federal law. The *[state agency responsible for managing fingerprint data e.g. the department of public safety]* may submit fingerprints to and exchange data with the Federal Bureau of Investigation. All good moral character information, including the information obtained through the criminal records checks, shall be considered in licensure decisions to the extent permissible by all applicable laws.

(4) Has graduated and received the Master's degree in social work from an Approved Social Work Program;

Section 303(a)(4). Qualifications for Licensure by Examination as a Master's Social Worker.

ASWB anticipates that Boards will approve those programs whose standards are at least equivalent to the minimum standards required by the Council on Social Work Education, including college structures externship programs. See Comment to Section 213(a)(4) for a discussion of the Board's role in the accreditation process.

ASWB also anticipates under comments to Article II, Section 213(a)(4), that Boards will adopt in its rules those programs approved from time to time by CSWE. Because CSWE does not approve Doctorate level programs, Boards are also encouraged to develop a process that will, at the very least, list the Doctorate programs that will be recognized for purposes of licensure qualification.

(5) Has successfully passed an examination or examinations prescribed by the Board; and

(6) Has paid all applicable fees specified by the Board relative to the licensure process.

Section 304. Qualifications for Licensure by Examination as a Clinical Social Worker.

(a) To obtain a license to engage in the practice of Clinical Social Work, an applicant for licensure by examination must provide evidence satisfactory to the Board, subject to Section 311, that the applicant:

(1) Has submitted a written application in the form prescribed by the Board;

(2) Has attained the age of majority;

(3) Is of good moral character. As one element of good moral character, the board shall require each applicant for licensure to submit a full set of fingerprints for the purpose of obtaining state and federal criminal records checks, pursuant to *[insert reference to authorizing state statute]* and applicable federal law. The *[state agency responsible for managing fingerprint data e.g. the department of public safety]* may submit fingerprints to and exchange data with the Federal Bureau of Investigation. All

Section 304(a)(3). Qualifications for Licensure by Examination as a Clinical Social Worker.

See comments on Section 302(a)(3) above.

good moral character information, including the information obtained through the criminal records checks, shall be considered in licensure decisions to the extent permissible by all applicable laws.

(4) Has graduated and received a Master's degree in social work from an Approved Social Work Program;

Section 304(a)(4). Qualifications for Licensure by Examination as a Clinical Social Worker.

ASWB anticipates that Boards will approve those programs whose standards are at least equivalent to the minimum standards required by the Council on Social Work Education, including college structured externship programs. See Comment to Section 213(a)(4) for a discussion of the Board's role in the accreditation process.

ASWB also anticipates under comments to Article II, Section 213(a)(4), that Boards will adopt in its rules those programs approved from time to time by CSWE. Because CSWE does not approve Doctorate level programs, Boards are also encouraged to develop a process that will, at the very least, list the Doctorate programs that will be recognized for purposes of licensure qualification.

(5) Has completed supervised practice approved by the Board, or demonstrated to the Board's satisfaction that experience in the practice of clinical social work meets or exceeds the minimum supervisory requirements of the Board;

304(a)(5). Qualifications for Licensure by Examination as a Clinical Social Worker.

ASWB suggests that boards recognize the need for flexibility in obtaining the appropriate supervision requirements, including changing technology, geographic location, and issues associated with the Americans with Disabilities Act (ADA).

All applicants for licensure as a Clinical Social Worker by examination shall obtain supervised experience in the practice of clinical social work after the receipt of a Master's or Doctorate degree in Social Work from an Approved Social Work Program, under such terms and conditions as the Board shall determine;

(6) Has successfully passed an examination or examinations prescribed by the Board; and

(7) Has paid all applicable fees specified by the Board relative to the licensure process.

Section 305. Clinical Supervision and Other Training Programs.

The Board shall establish such requirements for supervised practice or any other experiential program necessary to qualify an applicant for any licensure examination under this Act, and shall also determine the qualifications of supervisors used in supervision programs.

Section 306. Independent Practice.

No Baccalaureate or Master's Social Worker licensed under Section 302 or Section 303 shall engage in Independent Practice until such time that the social worker shall have worked in a supervised setting for a specified period of time and under terms and conditions set by the Board.

Section 306. Independent Practice.

Independent practice in the Licensed Baccalaureate Social Worker or Licensed Master's Social Worker categories should not be construed as private practice, in which Clinical Social Workers accept fees for service from clients or third party payers on the client's behalf. LBSW and LMSW social workers are not qualified to conduct the diagnosis and treatment of mental illness, or provide psychotherapy services, although LMSW social workers may provide some clinical services under supervision by a Clinical Social Worker. See the Introduction to the Model Act and comments to Article I, Sections 104, 105, and 106 for additional information on Independent Practice provisions.

Boards are encouraged to develop a method, such as the issuance of a special certificate or decal, that recognizes the Independent status of a particular licensee. The decal or certificate can be attached to the actual license to identify those practitioners eligible for independent practice

Regulations - Independent Practice

Pursuant to Article III, Section 306, all social workers who seek to attain the Independent Practice of Baccalaureate Social Work or Master's Social Work shall have practiced social work in a supervised setting under requirements and parameters set by the Board. The Board declares such parameters to be as follows:

In conjunction with the responsibilities (section 6) and areas of supervisory accountability (section 7), boards are encouraged to consider the quality of supervision in relation to the number of supervisees under the responsibility of one supervisor. Although there is no specific recommended ratio of supervisees per supervisor in the ASWB Model Social Work Practice Act or Regulations, ASWB suggests that Boards consider the context where supervision is taking place. Factors should include whether the supervisor is in the same agency as the supervisee, the geographic distance between the supervisor and supervisee, additional job responsibilities and work load of the supervisor, current personal circumstances of the supervisor, and other concerns that may affect the overall quality of the supervisor/supervisee relationship. The overall goal for supervision is professional growth and development. Boards should use many factors, including the number of supervisees under the supervision of one supervisor, as the benchmark for considering whether a plan for supervision is approved.

(1) To qualify for independent practice of Baccalaureate Social Work, an individual, after licensure to practice Baccalaureate Social Work, shall obtain 3000 hours of experience over a minimum two year period, but within a maximum four year period. Under any

circumstances, the 3000 hours of experience must be completed within eight (8) years from the date of initial application for Independent Practice recognition.

(2) To qualify for independent practice of Master's Social Work, an individual, after licensure to practice Master's Social Work, shall obtain 3000 hours of experience over a minimum two year period, but within a maximum four year period. Under any circumstances, the 3000 hours of experience must be completed within eight (8) years from the date of initial application for Independent Practice recognition.

(3) Paragraphs 4 through 8 shall be applicable to supervisors and the supervision process of Baccalaureate Social Workers and Master's Social Workers seeking independent practice status.

(4) An individual providing supervision to a Baccalaureate Social Worker shall be a Baccalaureate Social Worker or Master's Social Worker or Clinical Social Worker. An individual providing supervision to a Master's Social Worker shall be a Master's Social Worker or a Clinical Social Worker. In addition to the required licensure, the supervisor shall have attained the independent status of such licensure designation.

(5) Supervision can be provided only by supervisors preapproved by the regulatory body. The regulatory body shall maintain a list of approved supervisors in good standing. Requirements for registration on this list include the appropriate degree from an Approved Social Work Program, three years of experience following licensure in the required category and completion of graduate course work in supervision in an Approved Social Work Program or completion of an Approved Program of Continuing Education in supervision. Three hours of continuing education in supervision is required per licensure renewal period to maintain registration.

(6) The supervisor is responsible for supervision within the following content areas:

- *(i) Practice skills*
- *(ii) Practice management skills*
- *(iii) Skills required for continuing competence*
- *(iv) Development of professional identity*
- *(v) Ethical practice*
- *(vi) Cultural competency*

(7) The areas of supervisory accountability shall include:

- *(i) Client care*
- *(ii) Knowledge of relevant agency policy and procedure*
- *(iii) Legal and regulatory requirements*
- *(iv) Ethical standards of the profession*
- *(v) Professional responsibility for social work services provided by the supervisee*
- *(vi) Documented assessment of the supervisee's competence to practice independently.*

(8) Setting of supervision. If supervision is not provided within the agency of employment, the supervisee must obtain a written release from the

agency administrator to obtain supervision of agency clients outside the agency setting.

(9) A plan for supervision must be established and maintained throughout the supervisory period. Such plan must be submitted to the Board along with the application by the licensee for independent status. The Board reserves the right to preapprove and audit such plans. Plans must include:

- *(i) The purpose of supervision*
- *(ii) Process to be used in supervision, i.e., timing, skills*
- *(iii) Learning objectives*
- *(iv) Professional growth*
- *(v) Intervention processes*
- *(vi) Plans for documentation*
- *(vii) Ethics and values*
- *(viii) Evaluation*

(10) An evaluation of the supervisee in accordance with the plan shall be submitted to the regulatory body every six months and the records will be retained for three years.

Regulations - Practice of Clinical Social Work

Pursuant to Article III, Section 304(6)(a), all candidates for licensure as a Clinical Social Worker shall have practiced Clinical Social Work in a supervised setting under requirements and parameters set by the Board. The Board declares such parameters to be as follows:

In conjunction with the responsibilities (section 6) and areas of supervisory accountability (section 7), boards are encouraged to consider the quality of supervision in relation to the number of supervisees under the responsibility of one supervisor. Although there is no specific recommended ratio of supervisees per supervisor in the ASWB Model Social Work Practice Act or Regulations, ASWB suggests that Boards consider the context where supervision is taking place. Factors should include whether the supervisor is in the same agency as the supervisee, the geographic distance between the supervisor and supervisee, additional job responsibilities and work load of the supervisor, current personal circumstances of the supervisor, and other concerns that may affect the overall quality of the supervisor/supervisee relationship. The overall goal for supervision is professional growth and development. Boards should use many factors, including the number of supervisees under the supervision of one supervisor, as the benchmark for considering whether a plan for supervision is approved.

(1) Supervised Practice Required. To be eligible for licensure as a Clinical Social Worker a candidate must possess an LMSW and thereafter obtain 3000 hours of supervised clinical social work practice over a minimum two-year and maximum four-year period. Under any circumstances, the 3000 hours of experience must be completed within eight (8) years from the date of initial application for Clinical Practice recognition. Of these 3000 hours, at least 100 hours of direct clinical supervision is required. Such 100 hours must be equitably distributed throughout a minimum of a two-year period, and no more than 50 hours can be provided in group supervision.

Group supervision may be composed of no more than six supervisees per group. The Board maintains the authority to review extraordinary circumstances relevant to the time parameters of supervised practice.

(2) Type of clinical supervision required. Clinical supervision must be in face to face meetings between the supervisor and the supervisee unless the Board has granted an exception allowing for an alternate form of supervision.

(3) Documentation of clinical supervision. A plan for clinical supervision must be filed with the Board at the beginning of a period of supervision. If a supervisory change is made, notice of the end of the supervision and a termination evaluation, completed by the supervisor, must be submitted to the Board within 30 days.

(4) Setting of clinical supervision. If clinical supervision is not provided within the agency of employment, the supervisee must obtain written release from the agency administrator to obtain clinical supervision of agency clients outside the agency setting.

(5) An individual providing supervision shall be licensed as a clinical social worker.

(6) The clinical supervisor is responsible for supervision within the following content areas:

(i) Clinical skills.
(ii) Practice management skills.
(iii) Skills required for continuing competence.
(iv) Development of professional identity.
(v) Ethical practice.
(vi) Cultural competency

(7) The areas of clinical supervisory accountability shall include:

(i) Client care.
(ii) Knowledge of relevant agency policy and procedure.
(iii) Legal and regulatory requirements.
(iv) Ethical standards of the profession.
(v) Professional responsibility for social work services provided by the supervisee.
(vi) Documented assessment of the supervisee's competence to practice independently.

(8) Qualifications to become an Approved Clinical Supervisor. Supervision can be provided only by clinical supervisors preapproved by the regulatory body.

(i) The regulatory body shall maintain a list of approved clinical supervisors in good standing.
(ii) Requirements for registration on this list include a master's degree from an approved social work program, a minimum of 4500 hours of clinical practice, earned over a period of three years following clinical licensure, three years of experience following licensure in the required category and completion of graduate course work in supervision in an Approved Social Work Program or completion of an Approved Program of

Continuing Education in supervision. Three hours of continuing education in supervision is required per licensure renewal period to maintain registration.

(9) A plan for clinical supervision must be developed by the supervisor and the applicant with the board's approval, and submitted to the board. The Board reserves the right to preapprove and audit such plans. Plans must include:

(i) The purpose of supervision
(ii) Process to be used in supervision, i.e., timing, skills
(iii) Learning objectives
(iv) Professional growth
(v) Intervention processes
(vi) Plans for documentation
(vii) Ethics and values
(viii) Evaluation

(10) An evaluation of the supervisee in accordance with the plan shall be submitted to the regulatory body every six months, and the records will be retained for three years.

Section 307. Examinations.

(a) Any examination for licensure required under this Act shall be administered to applicants often enough to meet the reasonable needs of candidates for licensure. The Board shall be ultimately responsible for determining the content and subject matter of each examination and the time, place, and dates of administration of the examination. If applicable, the Board may confer with and rely upon the expertise of an examination entity in making such determinations.

Section 307(a). Examinations.

Consistent with the legal principles pertaining to delegation of authority outlined in Comments to Sections 213(a)(4), the language of Article III Section 307 empowers the board with the responsibilities for the content and subject matter of each examination and the time, place and date of administration. As further stated, the statutory authority recognizes that the board may, through rule-making and/or policy, rely upon the expertise of an examination entity in making such determinations. Statutorily placing the ultimate authority with the board addresses the legal mandate that the board makes such determinations, but also recognizes the authority of the board to rely upon the expertise of ASWB in the exam development and administration processes. For legal reasons, ASWB does not recommend that the statutes specifically reference any outside private organization, but rather authorize the board to make such determinations while recognizing the potential necessity to consult with the examination entity. For legal and practical reasons, statutorily empowering the board with such ultimate authority emphasizes the importance of board attendance and participation in the ASWB Delegate Assembly and on relevant ASWB committees where association members are exposed to the exam development process and statistical analyses pertaining to content and defensibility of the programs. See Comment to Section 213(a)(4).

(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.

(c) The board shall have the authority to limit the number of attempts on the examination in order to protect the integrity and security of the examination and to ensure minimum competence.

Regulations – Examination Re-takes

Pursuant to Article III, Section 307 (c), the board has the authority to limit examination re-takes. The board requires the parameters to be as follows:

(1) Applicants shall be allowed a maximum of three (3) attempts to successfully pass the examination.

(2) After the third attempt, if the applicant has not achieved a passing score, the applicant must request in writing to the board to re-take the examination. The board may require the applicant to complete a preapproved remediation plan prior to additional exam administrations.

Section 308. Qualifications for License Transfer.

(a) In order for a social worker currently licensed in another jurisdiction to obtain a license as a social worker by license transfer in this state, an applicant must provide evidence satisfactory to the Board, subject to Section 311, that the applicant:

(1) Has submitted a written application in the form prescribed by the Board;

(2) Has attained the age of majority;

(3) Is of good moral character;

(4) Has a social work degree at the designation for which the applicant is seeking licensure;

(5) Has possessed at the time of initial licensure as a social worker all other qualifications necessary to have been eligible for licensure at that time in this state;

(6) Has presented to the Board a passing score on the designated licensure examination;

(7) Has presented to the Board proof that the transferring social work license is current and in good standing;

(8) Has presented 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 non-renewal or for the failure to obtain the required continuing education credits in any state where the applicant is or has been licensed; and

(9) Has paid the fees specified by the Board.

(b) Applicants for license transfer under this Section shall only be eligible for licensure at the equivalent designation recognized in the currently licensed jurisdiction.

Section 308(b). Qualifications for License Transfer.

Boards are encouraged to develop extensive applications designed to elicit the information necessary to assess the eligibility of reciprocating candidates. Applications should include not only inquiries regarding adverse actions against the licensee, but also pending investigations, pending disciplinary proceedings, or other matters that may not have been completed.

Section 309. Renewal of Licenses.

(a) Licensees shall be required to renew their license at the time and in the manner established by the Board, including the form of application and payment of the applicable renewal fee. Under no circumstances, however, shall the renewal period exceed three years.

(b) As a requirement for licensure renewal, each licensee shall provide evidence satisfactory to the Board that such licensee has annually completed at least 15 continuing education hours from a Program of Continuing Education.

Section 309(b). Renewal of Licenses.

ASWB has instituted a program whereby the association, on behalf of its member boards, approves Providers of Continuing Education. As set forth in the Definitions, a "Program of Continuing Education" means an educational program offered by an "Approved Provider of Continuing Education." ASWB has adopted stringent criteria utilized by its ACE Committee in determining Approved Providers. The criteria were developed based upon an analysis of requirements currently used by ASWB member boards, along with a review of other organizations which also approve CE providers.

At their option, ASWB member boards may wish to recognize ASWB ACE approved providers as "approved" within their jurisdictions for purposes of accepting CE for licensure renewal. Such a process will save the administrative burdens placed upon the board in assessing CE providers while at the same time promoting the mission of ASWB to bring uniformity to the licensure and renewal process.

To avoid any notions of improperly delegating authority [see Comments, Section 213(a)(4)], boards are encouraged to adopt such criteria as established from time to time by the ASWB ACE Committee as the criteria of such board. This "two step" process will ensure that the board maintains the ultimate decision-making authority and avoids the legal pitfalls of improper delegation.

(c) The Board shall also provide procedures to ensure licensure renewal candidates maintain the qualifications to practice social work as set forth in this Act.

Section 309(c). Renewal of Licenses.

In recognition of the valuable information that criminal records checks may provide to the board as one element of determining good moral character (see comment to Section 302(a)(3)), boards that utilize criminal records checks in determining eligibility for licensure should adopt procedures that specify how/when criminal records checks will be required as a part of the licensure renewal process. It is recommended that boards at least periodically require submission of criminal records checks in the licensure renewal process. For example, criminal records checks may be required as part of a random audit of licensees during the renewal process, required of all licensees periodically (e.g. every 10 years or every 5 renewal cycles), or required as a part of every renewal cycle.

(d) If a social worker fails to make application to the Board for renewal of a license within a period of two years from the expiration of the license, such person must reapply as an initial applicant for licensure and pass the current

licensure examination; except that a person who has been licensed under the laws of this state and after the expiration of the license, 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 310. Continuing Social Work Competence.

The Board shall, by rule, establish requirements for continuing education in social work, including the determination of acceptable program content. The Board shall adopt rules necessary to carry out the stated objectives and purposes and to enforce the provisions of this section and the continued competence of practitioners.

Section 310. Continuing Social Work Competence.

The issue of how best to ensure and assess continuing competence is daunting. Numerous options are being considered by a number of national organizations, including self-assessment tools, continuing competence examinations, continuing education, and others, but no single model has emerged as the single most effective way to ensure continuing competence.

The Model Law Task Force considered a number of alternatives to mandated continuing education, the method currently used by most jurisdictions. These alternatives ranged from simply stating that licensees will maintain continuing competence as a standard of practice, to requiring retesting at periodic intervals. The task force recognized that while some of these alternatives might better evaluate the continuing competence of a social worker, it may be premature to recommend an alternative to mandated continuing education.

Continuing education has been widely used as an acceptable method for ensuring the continued competence of licensed social workers. Many licensing boards mandate that licensees obtain a specified number of hours of continuing education within a licensure renewal period. Some licensing boards specify that social workers must obtain continuing education in a certain practice area; most licensing boards, however, require that continuing education consist of more general content areas in social work.

Some variance exists in the ways boards currently recognize continuing education. Some boards recognize only those programs which have received Board approval, while other boards approve providers of continuing education. Some Boards do not approve programs or providers, but rely on the expectation that the continuing education programs chosen by the licensee will meet the requirements for content.

Typically, licensees' compliance with the continuing education requirements is checked either by reviewing attendance lists submitted by continuing education providers, by auditing a random sample of licensees as part of the licensure renewal process, or by requiring licensees to submit continuing education certificates, verification of continuing education units, or a list of contact hours obtained with their license renewal applications.

In order to create uniform standards for providers of continuing education for social workers, and as a way to relieve boards of the administrative burden of assessing each provider and/or continuing education offering, ASWB has implemented an Approved Continuing Education (ACE) program. The ASWB ACE program conducts rigorous and thorough assessments of providers based on clearly defined standards for provider organization, staffing, content development, and adherence to professional ethics. ASWB recommends that boards recognize ASWB ACE approved providers as "approved" providers of continuing education in their jurisdictions.

The ASWB ACE program is intended to advance uniform standards for continuing professional social work education. This program allows for the recognition of continuing education hours between jurisdictions, and relieves boards of the burdensome task of reviewing each provider and/or offering. The ASWB ACE program is consistent with the association's mission of promoting greater uniformity of social work regulation.

To avoid improperly delegating authority, ASWB member boards may adopt the ASWB ACE Criteria as the criteria of the board. Thereafter, CE providers recognized by the ASWB ACE program will meet the board criteria and thus may be recognized or approved by the board. ASWB ACE standards limit a provider's use of this approval to only those offerings developed and presented within the context of continuing social work education. Individual offerings are not approved through the ASWB ACE program; however, individual offerings are reviewed and randomly audited as a part of regular provider evaluation procedures.

These recommendations are considered to be the most acceptable way to carry out continuing competence mandates at present. ASWB and its member boards must continue to be active participants in the research and consideration of

various continuing competency models. The task force recommends that the Association begin by considering the development of a self-assessment tool for social workers to use in conjunction with additional assessment mechanisms. This measure, along with periodic retesting, may represent the next generation of tools to be used in assessing continuing competence. However, at some point in the future, license renewal by examination may become a necessity in order to verify continued minimal competence.

Regulations

(a) Pursuant to Article III, Section 309, a licensee must annually complete at least fifteen (15) hours of approved programs of continuing education.

(b) A Program of Continuing Education must contain at least one of the following content areas related to social work practice:

(1) Theories and concepts of human behavior in the social environment;

(2) Social work practice, knowledge and skills;

(3) Social work research, programs, or practice evaluations;

(4) Social work management, administration or social policy;

(5) Social work ethics;

(6) Other area approved by the Board deemed important and relevant to current social work practice.

(c) Continuing education hours must be earned in at least two of the following program areas:

(1) Academic course work:

(i) Courses and seminars given by an Accredited Program of Social Work;

(ii) Postgraduate courses from a university, college, or other institution of higher education, in a field other than social work, upon proof that the course is relevant to social work practice;

(iii) Undergraduate courses from a university, college or other institution of higher education, upon satisfaction of the Board that such course updates or enhances the licensee's social work competence;

(iv) Correspondence work, televised courses, audio/visual, video tapes, and other forms of self-study upon approval of the Board, shown to update or enhance social work competence. Under no circumstances shall more than five (5) hours from this category be acceptable as continuing education for each renewal cycle.

(2) Continuing education presentations of national, international, regional, or subregional conferences or association meetings relevant to social work practice.

(3) Workshops or institutes including approved workshops at conventions relevant to social work practice from approved providers.

(4) Public or private agency staff development programs from approved providers that contribute to the enhancement of social work practice or knowledge that are not primarily procedural or administrative.

(5) Individual activities conducted by the licensee such as lectures, publication of professional articles, course or conference presentations, or research leading to publication or presentation shown to be relevant to social work practice and approved by the Board in advance. Under no circumstances shall more than ten (10) hours from this category be acceptable as continuing education for each renewal cycle.

(6) Continuing education hours completed by licensees to meet the requirements of other jurisdictions or authorities may be approved by the Board as long as the program types and content areas are deemed by the Board to be consistent with those within this section.

(d) Final approval of the content areas for designating a program as a Program of Continuing Education lies with the Board. The Board may determine an Approved Provider of Continuing Education, after receipt of an application as set forth by the Board, accompanied by an applicable fee, which demonstrates the following:

(1) Programs to be provided will meet guidelines as determined by the Board, and will be presented by competent individuals as documented by appropriate academic training, professional licensure or certification, or professionally recognized experience.

(2) An identified licensed social worker will be involved in program planning and review.

(3) Appropriate documents will be maintained and provided to the Board upon request, including presenter qualifications, learning objectives, content outlines, attendance records, and completed evaluation forms.

(4) Compliance with all other applicable laws, including the Americans with Disabilities Act.

(5) Attendees will be provided a certificate of completion which includes the provider number.

Provider status shall be reviewed annually. The Board may refuse to renew provider status of any provider that fails to comply with the requirements of these rules.

Section 311. Source of Data.

In making determinations under this Article III and to promote uniformity and administrative efficiencies, the board shall be empowered to rely upon the expertise of and

Section 311. Source of Data.

Understanding the movement toward outsourcing certain board functions in an effort to

documentation and verified data gathered and stored by not for profit organizations which share in the public protection mission of this board.

satisfy fiscal responsibility of regulatory activities, ASWB promotes the use by boards of not for profit organizations that share in the public protection mission of the regulatory community. These relationships not only preserve and ensure the promotion of public protection, but protect the integrity of the regulatory process in an era of potential elimination/sunsetting of certain boards under scrutiny by the legislature. ASWB not only shares in the public protection mission of its membership, but also promotes active participation of its member social work boards through the ASWB election process, resolutions, budget discussions, financial reports, education programming, examination data and the like. Social work board participation ensures ASWB programs and services coincide with regulatory objectives. ASWB programs such as its examinations, ACE, PPD, the Registry, this Model Act and others are developed, administered and maintained to assist social work boards in their public protection functions and lessen burdens on state government.

The ASWB Social Work Registry was created to provide a uniform, "one stop" mechanism for applicants and social workers to submit and ASWB to accept, verify, where necessary, and store information necessary for initial licensure and licensure transfer. Furthermore, the Registry relieves boards of the administrative burden of organizing, compiling, and storing the information received from such applicants/social workers. The Registry acts as a repository for social workers' credential information while serving as a verification source, through primary source documentation, for social work licensing boards. For ASWB membership, the Registry will verify the following information related to applicants and social workers: identity, education, social work examination history and results, social work licensing history, documentation of clinical supervision and a record of disciplinary actions reported to the ASWB PPD. Member boards are encouraged to take advantage of the Registry which can simply verify receipt of such documents or, when requested, provide "certified" copies of such documents.

Similar to the Registry, ASWB programs are referenced throughout this Model Act and comments refer to the exams (comments to Article III Section 307(a)), the ASWB ACE Program (comments to Article III Section 310), and the ASWB PPD databank (comments to Article IV Section 401(c)). ASWB does not recommend that

the specific programs be referenced in the statute, see comments to Article II Section 213(a) (4).

The intent of this Section 311 is to legislatively authorize social work boards to utilize available programs offered by entities that share in the public protection mission of a regulatory agency.

Article IV. Discipline.

Introductory Comment to Article IV

The enforcement power of the Board is at the very heart of any practice act. In order to fulfill its responsibilities, the Board must have authority to discipline individuals or social workers who violate the act or its rules, including the ability to prohibit these individuals from continuing to threaten the public. The Board must be able to stop wrongdoers, discipline them, and where appropriate, guide and assist them in rehabilitation.

This Act's disciplinary provisions were drafted with the purpose of granting the Board the widest possible scope within which to perform its disciplinary functions. The grounds for disciplinary actions were developed to ensure protection of the public while giving Boards the power to expand or adapt them to changing local conditions. The penalties outlined under the Act give the Board the flexibility to tailor disciplinary actions to individual offenses.

Section 401. Grounds, Penalties, and Reinstatement.

Section 401. Grounds, Penalties, and Reinstatement.

Under this section, Boards are granted authority over both licensees and applicants. General powers are phrased in such a way as to allow the Board a wide range of actions, including the refusal to issue or renew a license, and the use of license restrictions or limitations. Similarly, the penalties outlined in this section give the Board wide latitude to make the disciplinary action fit the offense. Please refer to the Board powers of Section 213 for additional authority. Any "reasonable intervals," such as in subsection 213(b), would be determined by the Board.

ASWB recommends that Boards develop clear policies regarding the reporting of disciplinary actions taken against social workers, subject to confidentiality and to the applicable laws. It is strongly recommended that Boards make public as much disciplinary action information as law allows, and that all Boards participate in the ASWB Protection Database (PPD), formerly DARS, , a national databank that allows boards to review licensure candidates for past disciplinary actions from other jurisdictions.

(a) The Board may refuse to issue or renew, 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 Section 402 herein below, upon one or more of the following grounds as determined by the Board:

Section 401(a). Grounds, Penalties, and Reinstatement.

This section must be examined in light of other jurisdictional laws. Some jurisdictions, for example, restrict the circumstances under which a license may be denied to an individual who has committed a felony. Additionally, an individual who has been convicted of a felony or an act of gross immorality and who has paid the debt to society has restored constitutional protections. These protections may curtail a strict application of Section 401(a)(4) to this individual.

These potential problems make it essential for Boards to issue rules that make the grounds for disciplinary action specific, understandable, and reasonable. Boards must ensure that these rules are published for the benefit of all licensees. Taking these steps will assure the Board of the authority to make effective and meaningful disciplinary actions that will not be overturned by the courts.

(1) Unprofessional conduct as determined by the Board;

Section 401(a)(1). Grounds, Penalties, and Reinstatement.

Boards must be specific when defining the grounds for revoking or suspending a social worker's license to practice. The term "unprofessional conduct" is particularly susceptible to judicial challenge for being unconstitutionally vague. Each offense included in this term must be capable of being understood with reasonable precision by the persons regulated. If this standard is met, the individuals being regulated will be able to conform their professional conduct accordingly, and Boards will be able to readily enforce this provision, and rely upon it during disciplinary proceedings. Other terms sometimes used in statutes include unethical, immoral, improper or dishonorable conduct. Generally, courts have recognized as appropriate the use of unprofessional conduct when challenged legally. See *Chastev v. Anderson* 416 N.E.2d 247 (Il. 1981); *Stephens v. Penn. State Bd. of Nursing* 657 A.2d 71 (Pa. 1995).

(2) Practicing outside the scope of practice applicable to that individual;

(3) Conduct which violates any of the provisions of this Act or rules adopted pursuant to this Act, including the Standards of Practice;

Section 401(a)(3). Grounds, Penalties, and Reinstatement.

This subsection allows the Board to take disciplinary action against a violation of any portion of this Act. While not specifically enumerated in this subsection, many activities, such as failure to report under the mandatory reporting provisions in Article VI constitutes actionable conduct.

(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;

Section 401(a)(4). Grounds, Penalties, and Reinstatement.

This section does not identify specific impairments in order to allow for broad application and the potential for expansion. It is intended to cover incapacity and impairments due to drug and alcohol abuse, mental health conditions, and others.

It is important to note that the authority of the Board to refuse to issue or renew a licensee, as well as its ability to discipline a licensee for various incapacitates or impairments, should not be limited by the Americans with Disabilities Act (ADA). Board action must be based on the protection of the public—the ultimate goal of the practice act. The ADA is designed to provide opportunities to otherwise qualified individuals with disabilities. It does not mandate licensure where public protection might be compromised.

(5) Conviction of a felony (as defined under state, provincial, or federal law);

Section 401(a)(5). Grounds, Penalties, and Reinstatement.

Boards must also be aware of how the definition of "felony" may impact its actions. See *Rothstein v. Dept. of Professional and Occupational Regulation,* 397 So.2nd 305 (Fla.), where the Florida felony definition differed from the Federal definition.

(6) Any act involving moral turpitude or gross immorality;

Section 401(a)(6). Grounds, Penalties, and Reinstatement.

Similar to Section 401(a)(1), Unprofessional Conduct and the comments thereto, "moral turpitude or gross immorality" are terms providing the board with flexibility in the disciplinary process. That is, to effectively protect the public in regulating a profession, certain catch-all phrases may be needed which encompass situations not contemplated when drafting the statutes and rules. Further, as times change, the statutes should be flexible enough to address situations where disciplinary actions are justified, but not specifically articulated in the delineated grounds for discipline. While unprofessional conduct may be interpreted to refer to actions taken in the context of professional practice, moral turpitude or gross immorality likely encompasses activities outside of the context of professional practice. Of course, the grounds for discipline must comply with constitutional due process principles related to appropriate notice to individuals. Generally, courts have upheld the constitutionality of statutes which use moral turpitude or gross immorality as grounds for discipline. See: Haley v. Medical Disciplinary Board, 818 P. 2d 1062 (WA 1991); Finucan v. Maryland Board of Physician Quality Assurance, 846 A.2d 377 (App. Ct . MD 2004).

(7) Violations of the laws of this state, or rules and regulations pertaining thereto, or of laws, rules and regulations of any other state, or of the federal government;

(8) Misrepresentation of a material fact by an applicant or licensee;

(i) In securing or attempting to secure the issuance or renewal of a license;

(ii) In statements regarding the social workers skills or efficiency or value of any treatment provided or to be provided or using any false, fraudulent, or deceptive statement connected with the practice of 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 pay the costs assessed in a disciplinary matter pursuant to Section 213(b)(8) or 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) (i) Conduct which violates the security of any licensure examination materials; removing from the examination room any examination materials without authorization; the unauthorized reproduction by any means of any portion of the actual licensing examination; aiding by any means the unauthorized reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization either before, during or after an examination; or using or purporting to use any examination questions or materials which were improperly removed or taken from any examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination;

Section 401(a)(11) and Section 401(a)(12). Grounds, Penalties, and Reinstatement.

Boards are encouraged to rely upon these sections to enforce Board activities, when necessary. Through this subsection, as well as subsection 401(a)(3), failure to comply with mandatory reporting requirements or other responsibilities placed on a practitioner throughout various portions of this Act constitutes grounds for discipline.

(ii) Communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee; having in one's possession during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed, or otherwise authorized to be in one's possession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one's behalf;

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

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

Section 401(a)(15). Grounds Penalties, and Reinstatement.

As stated in comments to Section 401(a)(4), the ADA is not intended to interfere with a court order, nor a board's authority to protect the public through licensure decisions or criteria contained in the practice act.

Section 401(b). Grounds, Penalties, and Reinstatement.

This section addresses the impaired professional, and outlines the Board's flexibility when dealing with such professional through investigations and disciplinary actions. Section 401(b)(1) specifically is limited to treatment of impaired professionals only.

Section 401(b)(1). Grounds, Penalties, and Reinstatement.

ASWB encourages Boards to explore options for the effective monitoring of impaired practitioners. Once the Board has identified an impaired practitioner, there are many resources available to Boards that can assist in the monitoring and rehabilitation process.

(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 that this section should not apply to a licensee who has been convicted of, pleads guilty to, or enters a plea of nolo contendere to a felonious act or an offense relating to a controlled substance in a court of law of the United States or any other state, territory, or country or a conviction related to sexual misconduct. 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 only if the Board is satisfied that such action will not endanger the public and the

licensee enters into an agreement with the Board for a treatment and monitoring plan approved by the Board, progresses satisfactorily in such treatment and monitoring program, complies with all terms of the agreement and all other applicable terms of subsection (b)(2). 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.

(2) The Board may require a licensee to enter into an agreement which includes, but is not limited to, the following provisions:

(i) Licensee agrees that the license shall be suspended or revoked indefinitely under subsection (b)(1).

(ii) Licensee will enroll in a treatment and monitoring program approved by the Board.

(iii) 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.

(iv) Licensee consents to the treating physician or professional of the approved treatment and monitoring program reporting to the Board on the progress of licensee at such intervals as the Board deems necessary and such person making such report will not be liable when such reports are made in good faith.

(3) 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 licensee can resume practice without danger to the public.

(4) Licensee consents, in accordance with applicable law, to the release of any treatment information to the Board from anyone within the approved treatment program.

(5) The impaired licensee who has enrolled in an approved treatment and monitoring program and entered into an agreement with the Board in accordance with subsection (b)(1) hereof shall have the 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, and complies with the terms of the agreement and adheres to any limitations on the practice imposed by the Board to protect the public. 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.

(6) Any social worker who has substantial evidence that a licensee has an active addictive disease 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 reports 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 so failing to report.

(c) Subject to an order duly entered by the Board, 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, at reasonable intervals, to petition the Board for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the Board. Upon investigation and hearing, the Board may, in its discretion, 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, also at its discretion, may require such person to pass an examination or examinations for reentry into the practice of social work.

Section 401(c). Grounds, Penalties, and Reinstatement.

A social worker who is under investigation, or who has been charged with a violation of the Social Work Practice Act may agree to voluntarily surrender his or her license. When this occurs, the Board should formally enter stipulated findings and an order describing the terms and conditions of the surrender, including any agreed-upon time limits. This important step establishes statutory grounds that will support any disciplinary action, and prevents a social worker who has surrendered a license from applying for (or receiving) reinstatement within a time frame unacceptable to the Board. It also triggers a report to the ASWB Protection Database (PPD) service to inform other jurisdictions of the sanction. ASWB encourages Boards to review local law regarding disciplinary sanctions, and distinguish between revocation, suspension, and rights and conditions of reinstatement. See *Flanzer v. Board of Dental Examiners*, 271 Cal.Rptr. 583 (1990) (Board empowered to impose conditions of reinstatement); *Jones v. Alabama State Board of Pharmacy*, 624 So.2nd 613 (Ala. App.Ct. 1993) (revoked license carries no right of reinstatement); and *Roy v. Medical Board of Ohio,* 655 N.E. 2d (Ohio App.Ct. 1995) (authority to

revoke a license to practice includes the authority to revoke permanently).

(d) The Board may in its own name 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 applicable procedures as set forth in the Administrative Procedures Act. Nothing herein shall be construed as barring criminal prosecutions for violations of this Act.

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

(f) 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 10 days after notice of such action.

Section 402. Procedure.

Notwithstanding any provisions of the state Administrative Procedures Act, the Board may, without a hearing, temporarily suspend a license for not more than 60 days if the Board finds that a social worker has violated a law or rule that the Board is empowered to enforce, and if continued practice by the social worker would create an imminent risk of harm to the public. The suspension shall take effect upon written notice to the social worker specifying the statute or rule violated. At the time it issues the suspension notice, the Board shall schedule a disciplinary hearing to be held under the Administrative Procedures Act within 20 days thereafter. The social worker shall be provided with at least 20 days notice effective with the date of issuance of any hearing held under this subsection.

Section 402. Procedure.

In many jurisdictions, the procedures that must be followed before disciplinary action can be taken are determined by an Administrative Procedures Act. The Model Act was drafted on the assumption that an Administrate Procedures Act is in effect.

Article V. Confidentiality.

Introductory Comment to Article V

This section is intended to establish the confidentiality requirements for social workers, based on the professional relationship between practitioner and client. Although "confidentiality" and "privileged communication" are related terms, there are important differences between the two concepts. "Confidentiality" is a broad term, and describes the intention that information exchanged between a social worker and a client is to be maintained in secrecy, and not disclosed to outside parties. "Privileged communication" is a more narrow term that describes the legal relationship between social worker and client when a law mandates confidentiality.

This article is titled "Confidentiality" rather than "Privileged Communication" or "Confidentiality/Privileged Communication" because confidentiality provisions include privileged communications, and is intended to give Boards the widest possible latitude.

Section 501. Privileged Communications and Exceptions.

(a) No social worker shall disclose any information acquired provided by a client or from persons consulting the social worker in a professional capacity, except that which may be voluntarily disclosed under the following circumstances:

(1) In the course of formally reporting, conferring or consulting with administrative superiors, colleagues or consultants who share professional responsibility, in which instance all recipients of such information are similarly bound to regard the communication as privileged;

(2) With the written consent of the person who provided the information;

(3) In case of death or disability, with the written consent of a personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health or physical condition;

(4) When a communication reveals the intended commission of a crime or harmful act and such disclosure is judged necessary by the social worker to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety; or

(5) When the person waives the privilege by bringing any public charges against the licensee.

(b) When the person is a minor under the laws of the _____ of _____ and the information acquired by the social worker indicates the minor was the victim of or witness to a crime, the social worker may be required to testify in any judicial proceedings in which the commission of that crime is the subject of inquiry and when the court determines that the interests of the minor in having the information held privileged are outweighed by the requirements of justice, the need to protect the public safety or the need to protect the minor.

Section 501(a). Privileged Communications and Exceptions.

See *Tarasoff v. Regents of University of California* 17 Cal. 3d.425, 131 Cal. Rptr. 14,551 P.2d 334 (1976).

(c) Any person having access to records or anyone who participates in providing social work services or who, in providing any human services, is supervised by a social worker, is similarly bound to regard all information and communications as privileged in accord with the section.

(d) Nothing shall be construed to prohibit a social worker from voluntarily testifying in court hearings concerning matters of adoption, child abuse, child neglect or other matters pertaining to children, elderly, and physically and mentally impaired adults, except as prohibited under the applicable state and federal laws.

(e) The _____, as now or hereafter amended, is incorporated herein as if all of its provisions were included in this Act.

Section 501(d). Privileged Communications and Exceptions.

This section is applicable only if there are other state laws governing privilege.

Regulations

Standards of Practice/Code of Conduct.

Part 1. Standards of Practice.

Subpart 1. Scope & Applicability. *The standards of practice apply to all applicants and licensees. The use of the term social worker within these standards of practice includes all applicants and licensees.*

Subpart 2. Purpose. *The standards of practice constitute the standards by which the professional conduct of an applicant or licensee is measured.*

Introductory Comment to Standards of Practice

The development of effective regulations is crucial to the implementation of the Act. While the Act provides the framework that establishes the board's authority, licensure qualifications, and general parameters of practice, the regulations define the standards of professional conduct that constitute safe and legal practice. Regulations provide a mechanism by which the law can be applied.

Subpart 3. Violations. *A violation of the standards of practice constitutes unprofessional or unethical conduct and constitutes grounds for disciplinary action or denial of licensure.*

Part 2. General Practice Parameters.

Subpart 1. Client welfare. *Within the context of the specific standards of practice prescribed herein, a social worker shall make reasonable efforts to advance the welfare and best interests of a client.*

Subpart 2. Self-determination. *Within the context of the specific standards of practice prescribed herein, a social worker shall respect a client's right to self-determination.*

Subpart 3. Nondiscrimination. *A social worker shall not discriminate against a client, student, or supervisee on the basis of age, gender, sexual orientation, race, color, national origin, religion, diagnosis, disability, political affiliation, or social or economic status. If the social worker is unable to offer services because of a concern about potential discrimination against a client, student, or supervisee, the social worker shall make an appropriate and timely referral. When a referral is not possible, the social worker shall obtain supervision or consultation to address the concern.*

Subpart 4. Professional Disclosure Statement. *A social worker shall effectively communicate through handout or other means as*

appropriate for all clients and may display at the social worker's primary place of practice a statement that the client has the right to the following:

A. To expect that the social worker has met the minimal qualifications of education, training, and experience required by the law in that jurisdiction;

B. To examine public records maintained by the Board which contain the social worker's qualifications and credentials;

C. To be given a copy of the standards of practice upon request;

D. To report a complaint about the social worker's practice to the Board;

E. To be informed of the cost of professional services before receiving the services;

F. To privacy as allowed by law, and to be informed of the limits of confidentiality;

Standards of Practice. Part 2. General Practice Parameters. Subpart 4. Professional Disclosure. F.

This article is intended to codify the confidentiality requirements surrounding the social worker-client relationship, to the extent not covered elsewhere in the statutes of the particular jurisdiction. The confidential nature of communications and records between social workers and other healthcare practitioners and their clients are subject to many different confidentiality requirements. The recent addition of privacy regulations implemented as a result of the Health Insurance Portability and Accountability Act (HIPAA) illustrates the emphasis by the federal government on issues of protecting personally identifiable health information. Because the ASWB Model Act encompasses protecting health information and to provide the Act with as much flexibility as possible, there is no need to specifically identify HIPAA or other applicable legislation within the Act. Article IV section 401(a)(7) also addresses the requirement that individuals comply with applicable federal and state laws.

G. Limited access to client information. A social worker shall make reasonable efforts to limit access to client information in a social worker's agency to appropriate agency staff whose duties require access.

H. Supervision or Consultation. A social worker receiving supervision related to practice shall inform the client that the social worker may be reviewing the client's case with the social worker's supervisor or consultant. Upon request, the social worker shall provide the name of the supervisor and the supervisor's contact information.

I. To be free from being the object of discrimination while receiving social work services; and

J. To have access to records as allowed by law.

Part 3. Competence.

Subpart 1. Continued competence. *A social worker shall take all necessary and reasonable steps to maintain continued competence in the practice of social work.*

Subpart 2. Limits on practice. *A social worker shall limit practice only to the competency areas for which the social worker is qualified by licensure and training, experience, or supervised practice.*

Subpart 3. Referrals. *A social worker shall make a referral to other professionals when the services required are beyond the social worker's competence.*

Subpart 4. Delegation. *A social worker shall not assign, oversee or supervise the performance of a task by another individual when the social worker knows that the other individual is not licensed to perform the task or has not developed the competence to perform such task.*

Standards of Practice. Part 3. Competence. Subpart 4. Delegation.

ASWB recognizes that student field experiences are an important part of social work education. This section is not intended to prohibit students from practicing under supervision. However, ASWB does recommend that clients be informed whenever they are receiving social work services from a supervised student.

Part 4. Practice Requirements.

Subpart 1. Assessment or diagnosis. *A social worker shall base services on an assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the assessment or diagnosis needs to be reviewed or revised.*

Standards of Practice. Part 4. Practice Requirements. Subpart 1. Assessment or diagnosis.

Clinical Social Workers are qualified to use recognized diagnosis classification systems such as the *Diagnostic and Statistical Manual of Mental Disorders*, the *International Classification of Diseases,* and other diagnostic classification systems.

Subpart 2. Assessment or diagnosis instruments. *A social worker shall follow standard and accepted procedures for deciding when and how to use an assessment or diagnostic instrument. A social worker shall inform a client of its purpose before administering the instrument and, when available, of the results derived therefrom.*

Subpart 3. Plan. *A social worker shall develop a plan for services which includes goals based on the assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the plan needs to be reviewed or revised.*

Subpart 4. Supervision or consultation. *A social worker shall obtain supervision or engage in consultation when necessary to serve the best interests of a client.*

Subpart 5. Informed consent.

A. Social workers shall provide services to clients only in the context of a professional relationship based, when appropriate, on valid informed consent. Social workers should use clear and understandable language to inform clients of the plan of the services, risks related to the plan, limits to services, relevant costs, reasonable alternatives, client's right to refuse or withdraw consent, and the time frame covered by the

consent. Social workers shall provide clients with an opportunity to ask questions.

B. *If the client does not have the capacity to provide consent, the social worker shall obtain consent for the services from the client's legal guardian or other authorized representative.*

C. *If the client, the legal guardian, or other authorized representative does not consent, the social worker shall discuss with the client that a referral to other resources may be in the client's best interests.*

Subpart 6. Records.

A. *A social worker shall make and maintain records of services provided to a client. At a minimum, the records shall contain documentation verifying the identity of the client; documentation of the assessment or diagnosis; documentation of a plan, documentation of any revision of the assessment or diagnosis or of a plan; any fees charged and other billing information; copies of all client authorization for release of information and any other legal forms pertaining to the client. These records shall be maintained by the licensee or agency employing the licensee under secure conditions and for time periods in compliance with applicable federal or state law, but in no case for fewer than seven years after the last date of service.*

B. *Where a social worker or social work practice ceases operations as a result of a suspension, retirement or death of the owner, sale or other cause, including insolvency, the licensee, or other individual responsible for supervising the disposition of the practice, shall make every effort to notify the clients of their right to retrieve current records for a period of six (6) months using all of the following methods:*

   1. *Notification in writing to the board;*

   2. *Publication, at least weekly for one month, in a newspaper whose circulation encompasses the major area of a practitioner's former practice, of a notice advising clients of the right to retrieve their records for a six (6) month period; and*

   3. *If applicable, a sign placed at the practice location informing clients of the right and procedures to retrieve their records.*

C. *Should any client fail to retrieve the records within the six (6) month period and unless otherwise required by law, the responsible party shall arrange the destruction of such documents in a manner to ensure confidentiality.*

Subpart 7. Reports. *A social worker shall complete and submit reports as required by law in a timely manner.*

Subpart 8. Exploitation*. A social worker shall not exploit in any manner the professional relationship with a client, student, or supervisee for the social worker's emotional, financial, sexual or personal advantage or benefit, nor shall the social worker use the professional relationship with a client, student, or supervisee to further personal, religious, political or business interests.*

Subpart 9. Termination of services*. A social worker shall terminate a professional relationship with a client when the client is not likely to benefit from continued services or the services are no longer needed. The social worker who anticipates the termination of services shall*

give reasonable notice to the client. The social worker shall take reasonable steps to inform the client of the termination of professional relationship. The social worker shall provide referrals as needed or upon the request of the client. A social worker shall not terminate a professional relationship for the purpose of beginning a personal or business relationship with a client.

Part 5. Relationships with Clients and Former Clients.

***Subpart 1. Personal relationships with clients**. A social worker shall not engage in dual relationships with clients that compromise the well-being of the client, impair the objectivity and professional judgment of the social worker or increase the risk of client exploitation. When a social worker may not avoid a personal relationship with a client, the social worker shall take appropriate precautions, such as informed consent, consultation, or supervision to ensure that the social worker's objectivity and professional judgment are not impaired.*

***Subpart 2. Personal relationships with former clients**. A social worker may engage in a personal relationship, except as prohibited by Part 5, Subpart 4, with a former client, if the former client was notified of the termination of the professional relationship. The social worker shall continue to consider the best interests of the former client, and shall not engage in a personal relationship with a former client if a reasonable social worker would conclude that the former client continues to relate to the social worker in the social worker's professional capacity.*

***Subpart 3. Sexual contact with a client**. A social worker shall not engage in or request sexual contact as defined in Part 5, Subpart 5, with a client under any circumstances. A social worker shall not engage in any verbal or physical behavior which a reasonable person would find to be sexually seductive or sexually demeaning. A social worker shall not sexually harass a client.*

***Subpart 4. Sexual contact with a former client**. A social worker who has provided clinical social work services to a client shall not engage in or request sexual contact as defined in Part 5, Subpart 5, with the former client under any circumstances. A social worker who has provided other social work services to a client shall not engage in or request sexual contact as defined in Part 5, Subpart 5, with the former client at any time if a reasonable social worker would determine that engaging in sexual contact with the client would be exploitative, abusive, or detrimental to the client's welfare. It is the responsibility of the social worker to assume the full burden of demonstrating that the former client has not been exploited or abused either intentionally or unintentionally.*

***Subpart 5. Sexual contact defined**. Sexual contact includes but is not limited to sexual intercourse, either genital or anal, cunnilingus, fellatio, or the handling of the breasts, genital areas, buttocks, or thighs, whether clothed or unclothed, by either the social worker or the client.*

Standards of Practice. Part 5. Relationships with Clients and Former Clients. Subpart 4. Sexual contact with a former client.

The nature of the therapeutic relationship between a Clinical Social Worker and a client is such that it is inappropriate to ever engage in sexual contact with a current or former client.

Standards of Practice. Part 5. Relationships with Clients and Former Clients. Subpart 5. Sexual contact defined.

Kissing and hugging have not been included in the definitions of sexual contact due to wide variation in context and acceptability. It would be extremely difficult to establish a definitive set of circumstances under which a hug becomes an element of sexual contact. For example, school social workers, hospital social workers, and social workers who work with children often

employ supportive hugs in their relationships with clients. It would be counterproductive to effective practice to place a blanket ban on this kind of benign physical contact.

Subpart 6. Business relationship with a client*. A social worker shall not engage in any type of a business relationship with a client. Business relationships do not include purchases made by the social worker from the client when the client is providing necessary goods or services to the general public, and the social worker determines that it is not possible or reasonable to obtain the necessary goods or services from another provider.*

Subpart 7. Business relationship with a former client*. A social worker may engage in a business relationship with a former client, if the former client was notified of the termination of the professional relationship. The social worker shall continue to consider the best interests of the former client, and shall not engage in a business relationship with a former client if a reasonable social worker would conclude that the former client continues to relate to the social worker in the social worker's professional capacity.*

Subpart 8. Prior Personal or Business Relationships*. A social worker may engage in a professional relationship with an individual with whom the social worker had a previous personal or business relationship only if a reasonable social worker would conclude that the social worker's objectivity and professional judgment will not be impaired by reason of the previous personal or business relationship.*

Subpart 9. Social worker responsibility*. A social worker shall be solely responsible for acting appropriately in regard to relationships with clients or former clients. A client or a former client's initiation of a personal, sexual, or business relationship shall not be a defense by the social worker for a violation of Part 5, Subparts 1 through 8.*

Subpart 10. Others. *Part 5, Subparts 1 through 9 also apply to a social worker's relationship with students, supervisees, employees of the social worker, family members or significant others of a client.*

Part 6. Client Confidentiality.

Subpart 1. General*. A social worker shall protect all information provided by or obtained about a client. "Client information" includes the social worker's personal knowledge of the client and client records. Except as provided herein, client information may be disclosed or released only with the client's written informed consent. The written informed consent shall explain to whom the client information will be disclosed or released and the purpose and time frame for the release of information.*

Standards of Practice. Part 6. Client Confidentiality. Subpart 1. General.

Part 6 of the Standards of Practice is intended to work in conjunction with Article V, Confidentiality in the Model Act. Please refer to the introductory comments for Article V of the Model Act for a discussion of the relationship between "confidentiality" and "privileged communication."

This section does not prohibit a client from accessing his or her own records. Statutes regarding access to medical records generally addresses this area.

Subpart 2. Release of client information without written consent. *A social worker shall disclose client information without the client's written consent only under the following circumstances:*

A. Where mandated by federal or state law, including mandatory reporting laws, requiring release of client information;

B. The social worker determines that there is a clear and imminent risk that the client will inflict serious harm on either the client or another identified individual. The social worker shall release only the information that is necessary to avoid the infliction of serious harm. The social worker may release this information to the appropriate authorities and the potential victim;

C. The Board duly issues a valid subpoena to the social worker, as permitted by law.

Subpart 3. Release of client records without written consent*. A social worker shall release client records without the client's written consent under the following circumstances:*

A. A client's authorized representative consents in writing to the release;

B. As mandated by federal or jurisdiction law requiring release of the records;

C. The Board duly issues a valid subpoena for the records, as permitted by law.

Standards of Practice. Part 6. Client Confidentiality. Subpart 3. Release of client records without written consent.

ASWB recognizes that requirements for the release of records without client consent may represent a tension between the legal regulation of social work and the ethical code developed by NASW. However, the association recommends that Boards consider the potential necessity for such access in relation to public protection. Boards must have the power to subpoena records if those records may have a bearing on whether the public is at risk of receiving unethical, incompetent, illegal or unregulated social work services.

Subpart 4. Limits of confidentiality*. The social worker shall inform the client of the limits of confidentiality as provided under applicable law.*

Subpart 5. Minor clients*. In addition to the general directive in Part 6, Subpart 4, a social worker must inform a minor client, at the beginning of a professional relationship, of any laws which impose a limit on the right of privacy of a minor.*

Subpart 6. Third party billing*. A social worker shall provide client information to a third party for the purpose of payment for services rendered only with the client's written informed consent. The social worker shall inform the client of the nature of the client information to be disclosed or released to the third party payor.*

Subpart 7. Client information to remain private*. A social worker shall continue to maintain confidentiality of client information upon termination of the professional relationship including upon the death of the client, except as provided under applicable law.*

Subpart 8. Recording / Observation*. A social worker shall obtain the client's written informed consent before the taping or recording of a session or a meeting with the client, or before a third party is allowed to observe the session or meeting. The written informed consent shall explain to the client the purpose of the taping or recording and how the*

taping or recording will be used, how it will be stored and when it will be destroyed.

Part 7. Conduct.

***Subpart 1. Impairment**. A social worker shall not practice while impaired by medication, alcohol, drugs, or other chemicals. A social worker shall not practice under a mental or physical condition that impairs the ability to safely practice.*

***Subpart 2. Giving drugs to a client**. Unless permissible by state law, a social worker shall not offer medication or controlled substances to a client, or accept these substances from a client for personal use or gain. The social worker may accept medication or controlled substances from a client for purposes of disposal or to monitor use. Under no circumstances shall a social worker offer alcoholic beverages to a client or accept such from a client.*

***Subpart 3. Investigation**. A social worker shall comply with and not interfere with Board investigations.*

Part 8. Representation to the Public. Advertising.

***Subpart 1. Required use of license designation**. A social worker shall use the license designation of LBSW, LMSW, LCSW, which corresponds to the social worker's license, after the social worker's name in all written communications related to social work practice, including any advertising, correspondence, and entries to client records.*

***Subpart 2. Information to clients or potential clients**. A social worker shall provide accurate and factual information concerning the social worker's credentials, education, training, and experience upon request from a client or potential client. A social worker shall not misrepresent directly or by implication the social worker's license level, degree, professional certifications, affiliations, or other professional qualifications in any oral or written communication or permit or continue to permit any misrepresentations by others. A social worker shall not misrepresent, directly or by implication, affiliations, purposes, and characteristics of institutions and organizations with which the social worker is associated.*

***Subpart 3. Licensure status**. Licensure status shall not be used as a claim, promise, or guarantee of successful service, nor shall the license be used to imply that the licensee has competence in another service. Public statements or advertisements may describe fees, professional qualifications, and services provided, but they may not advertise services as to their quality or uniqueness and may not contain testimonials by quotation or implication.*

***Subpart 4. Display of license**. A social worker shall conspicuously display a current license issued by the Board at the social worker's primary place of practice.*

Standards of Practice. Part 8. Representation to the Public. Advertising. Subpart 4. Display of license.

If the social worker does not have an office or a license of appropriate size for display, the license should be carried and presented to clients on initial contact.

Part 9. Fees and Billing Practices.

Subpart 1. Fees and payments*. A social worker who provides a service for a fee shall inform a client of the fee at the initial session or meeting with the client. Payment must be arranged at the beginning of the professional relationship, and the payment arrangement must be provided to a client in writing. A social worker shall provide, upon request from a client, a client's legal guardian, or other authorized representative, a written explanation of the charges for any services rendered.*

Subpart 2. Necessary services*. A social worker shall bill only for services which have been provided. A social worker shall provide only services which are necessary.*

Subpart 3. Bartering*. A social worker may not accept goods or services from the client or a third party in exchange for the social worker's services, except when such arrangement is initiated by the client and is an accepted practice in the social worker's community or within the client's culture. It is the responsibility of the social worker to assume the full burden of demonstrating that this arrangement will not be detrimental or exploitative to the client or the professional relationship.*

Subpart 4. No payment for referrals*. A social worker shall neither accept nor give a commission, rebate, fee split, or other form of remuneration for the referral of a client.*

Part 10. Research.

Subpart 1. Informed consent*. When undertaking research activities, the social worker shall abide by accepted protocols for protection of human subjects. A social worker must obtain a client's or a client's legal guardian's written informed consent for the client to participate in a study or research project and explain in writing the purpose of the study or research as well as the activities to be undertaken by the client should the client agree to participate in the study or research project. The social worker must inform the client of the client's right to withdraw from the project at any time.*

Standards of Practice. Part 10. Research. Subpart 1. Informed consent.

The use of information that cannot be identified with a specific client does not require informed consent.

Article VI. Mandatory Reporting.

Introductory Comment to Article VI

Social workers are in a unique position to know of and evaluate the conduct of other social workers. This section establishes a social worker's legal responsibility to report activities that may be harmful to clients, including incompetence, malfeasance, and unethical practice.

Recently, consumer groups and others have voiced concerns that health care professionals often protect each other—either through remaining silent when made aware of substandard practice, or through outright denial of this substandard practice—to the detriment of the public. This perception, no matter how inaccurate, undermines the public's confidence in professional regulation. The inclusion of mandatory reporting provisions provides assurance that professional "protection" that puts the public at risk is itself a violation of the practice act.

Section 601. Permission to Report.

A person who has knowledge of any conduct by an applicant or a licensee which may constitute grounds for disciplinary action under this chapter or the rules of the Board or of any unlicensed practice under this chapter may report the violation to the Board.

Section 602. Professional Societies or Associations.

A national, state or local professional society or association for licensees shall forward to the Board any complaint received concerning the ethics or conduct of the practice which the Board regulates. The society or association shall forward a complaint to the Board upon receipt of the complaint. The society or association shall also report to the Board any disciplinary action taken against a member.

Section 602. Professional Societies or Associations.

The intent of this section is to address conduct that is grounds for discipline under the Act. This section is not intended to cover other conduct issues that may be addressed in the NASW Code of Ethics.

Section 603. Social Workers.

(a) Social workers shall report to the Board information on the following conduct by an applicant or a licensee:

(1) sexual contact or sexual conduct with a client or a former client; the client shall only be named with the client's consent;

(2) failure to report 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,

Section 603(a)(4). Social Workers.

References to improper or fraudulent billing practice includes Medicare, Medicaid, managed care, and private insurance, as well as all issues relating to billing practice involving the client.

(5) fraud in the licensure application process or any other false statements made to the Board;

(6) conviction of any felony or any crime reasonably related to the practice of social work;

(7) a violation of Board order.

(b) Social workers shall also report to the Board information on any other conduct by any individual licensee that constitutes grounds for disciplinary action under this chapter or the rules of the Board.

Section 604. Reporting Other Licensed Professionals.

An applicant or licensee shall report to the applicable Board conduct by a licensed health professional which would constitute grounds for disciplinary action under the chapter governing the practice of the other licensed health professional and which is required by law to be reported to the Board.

Section 605. Courts.

The court administrator of district court or any other court of competent jurisdiction shall report to the Board any judgment or other determination of the court that adjudges or includes a finding that an applicant or a licensee is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the applicant or licensee or commits an applicant or licensee pursuant to applicable law.

Section 606. Self-Reporting.

An applicant or licensee shall report to the Board any personal action that would require that a report be filed pursuant to this Act.

Section 607. Deadlines, Forms.

Reports required by this Act must be submitted not later than 30 days after learning of the reportable event or transaction. The Board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Section 608. Immunity.

Any person, social worker, business, or organization is immune from civil liability or criminal prosecution for submitting in good faith a report under this Act or for otherwise reporting, providing information, or testifying about violations or alleged violations of this chapter.

Article VII. Other.

Section _____ Severability.

If any provision of this Act is declared unconstitutional or illegal, or the applicability of this Act to any person or circumstance is held invalid by a court of competent jurisdiction, the constitutionality or legality of the remaining provisions of this Act and the application of this Act to other persons and circumstances shall not be affected and shall remain in full force and effect without the invalid provision or application.

Section _____ Effective Date.

This Act shall be in full force and effect on (date).

Appendix A: Resources

The Model Law Task Force reviewed a great deal of material taken from current laws and regulations. Citations for each of these laws and regulations are not included in this appendix.

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Gibelman, Margaret & Schervish, Philip H. (1993). *Who We Are: The Social Work Labor Force as Reflected in the NASW Membership*. Washington, DC. NASW Press.

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National Association of Boards of Pharmacy, *Model State Pharmacy Act and Model Rules of the National Association of Boards of Pharmacy*. Chicago, IL: author.

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National Organization for Competency Assurance. (1981*). Continuing Competence: An Overview*. Washington, DC: author.

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Shimberg, Benjamin. (1978*). Mandatory Continuing Education: Some Questions to Ask, State Government*. The Council of State Governments.

Shimberg, Benjamin. (1987). *Assuring the Continued Competence of Health Professionals*. Federation of State Medical Boards of the United States, Inc.

Teare, Robert J. & Sheafor, Bardford W. (1995). *Practice-Sensitive Social Work Education: An Empirical Analysis of Social Work Practice and Practitioners*. Alexandria, VA. Council on Social Work Education.

The National Commission for Certifying Bodies. (1981). *To Assure Continuing Competence: A Report of the National Commission for Certifying Agencies*. Washington, DC: author.

Appendix B: Organizations Submitting Input

The following is a list of all social work boards, social work professional organizations, and individuals who submitted comments to the Model Law Task Force, based on their review of the draft of the Social Work Practice Act.

Social Work Organizations
American Board of Examiners in Clinical Social Work
Council on Social Work Education
Clinical Social Work Federation
Florida Society for Clinical Social Work
Idaho Society for Clinical Social Work
National Association of Social Workers
Society for Social Work Administrators in Health Care

State Social Work Boards
Arizona Board of Behavioral Health Examiners
California Board of Behavioral Science Examiners
Delaware Board of Clinical Social Work Examiners
Florida Agency for Health Care Administration
Georgia Composite Board of Professional Counselors, Social Workers, and Marriage & Family Therapists
Idaho Board of Social Work Examiners
Louisiana Board of Board Certified Social Work Examiners
Maine Board of Social Work Examiners
Minnesota Board of Social Work
New Jersey Board of Social Work Examiners
New Mexico Board of Social Work Examiners
New York Board for Social Work
North Carolina Social Work Board
Oklahoma Board of Licensed Social Workers
South Carolina Board of Social Work Examiners
Virgin Islands Board of Social Work Licensure

Individuals
Ann Aukamp
Arthur Flax
Elizabeth Horton
Shelomo Oslman
Jacqueline Urow

Appendix C: Organizations Solicited For Input

American Board of Examiners in Clinical Social Work

Association of Baccalaureate Program Directors

Council on Social Work Education

National Association of Black Social Workers

National Association of Deans and Directors

National Association of Social Workers

National Federation of Societies for Clinical Social Work

School Social Work Associations of America

Society for Social Work Administrators in Health Care

AASSWB Delegates

AASSWB Alternates

AASSWB Social Work Board Administrators

Appendix D: Acknowledgments

The original Model Social Work Practice Act was drafted by members of the Model Law Task Force. The association is grateful to Mary Jo Monahan and Thomas McSteen, co-chairpersons, and to Gay Lynn Bond, Violet Burdette, Catherine Clancy, Patricia Conklin, Elizabeth Farnsworth, Rosemary Funderburg, Virginia Gender, and Janice James, task force members who worked so hard and devoted so much time to developing the ASWB Model Social Work Practice Act. Special appreciation is given to Dale Atkinson, Esquire, who so ably guided the work of the task force.

ASWB would also like to thank the social work boards, professional organizations, and individuals who took the time to review and comment on this model during its creation. The input from these groups played an extremely important part in the development of this document.

NATIONAL ASSOCIATION OF SOCIAL WORKERS

NASW Standards for

Clinical Social Work

in Social Work Practice

NASW
National Association of Social Workers

2005

NASW Standards for

Clinical Social Work

in Social Work Practice

Contents

Standards
for Clinical Social Work in Social Work Practice

Standard 1. Ethics and Values
Clinical social workers shall adhere to the values and ethics of the social work profession, utilizing the NASW *Codes of Ethics* as a guide to ethical decision making.

Standard 2. Specialized Practice Skills and Intervention
Clinical social workers shall demonstrate specialized knowledge and skills for effective clinical intervention with individuals, families, and groups.

Standard 3. Referrals
Clinical social workers shall be knowledgeable about community services and make appropriate referrals, as needed.

Standard 4. Accessibility to Clients
Clinical social workers shall be accessible to clients during nonemergency and emergency situations.

Standard 5. Privacy and Confidentiality
Clinical social workers shall maintain adequate safeguards for the private nature of the treatment relationship.

Standard 6. Supervision and Consultation
Clinical social workers shall maintain access to professional supervision and/or consultation.

Standard 7. Professional Environment and Procedures

Clinical social workers shall maintain professional offices and procedures.

Standard 8. Documentation

Documentation of services provided to or on behalf of the client shall be recorded in the client's file or record of services.

Standard 9. Independent Practice

Clinical social workers shall have the right to establish an independent practice.

Standard 10. Cultural Competence

Clinical social workers shall demonstrate culturally competent service delivery in accordance with the *NASW Standards for Cultural Competence in Social Work Practice*.

Standard 11. Professional Development

Clinical social workers shall assume personal responsibility for their continued professional development in accordance with the *NASW Standards for Continuing Professional Education* and state requirements.

Standard 12. Technology

Clinical social workers shall have access to computer technology and the Internet, as the need to communicate via e-mail and to seek information on the Web for purposes of education, networking, and resources is essential for efficient and productive clinical practice.

Adopted by the NASW Board of Directors
June, 2005.

Introduction

Clinical social workers represent the largest group of behavioral health practitioners in the nation. They are often the first to diagnose and treat people with mental disorders and various emotional and behavioral disturbances. Clinical social workers are essential to a variety of client-centered settings, including community mental health centers, hospitals, substance use treatment and recovery programs, schools, primary health care centers, child welfare agencies, aging services, employee assistance programs, and private practice settings.

Clinical social work has a primary focus on the mental, emotional, and behavioral well-being of individuals, couples, families, and groups. It centers on a holistic approach to psychotherapy and the client's relationship to his or her environment. Clinical social work views the client's relationship with his or her environment as essential to treatment planning.

Clinical social work is a state-regulated professional practice. It is guided by state laws and regulations. In most instances, clinical social workers are required to have the following credentials:

- a master's degree from a social work program accredited by the Council on Social Work Education
- a minimum of two years or 3,000 hours of post-master's degree experience in a supervised clinical setting
- a clinical license in the state of practice.

Clinical social work is broadly based and addresses the needs of individuals, families, couples, and groups affected by life changes and challenges, including mental disorders and other behavioral disturbances. Clinical social workers seek to provide essential services in the environments, communities, and social systems that affect the lives of the people they serve.

Goals of the Standards

Clinical social workers are committed to the delivery of competent services to individuals, families, couples, and groups. Therefore, they shall recognize the client's role in his or her treatment planning and the client's right to have a knowledgeable, skilled practitioner who is guided by sound ethical practice.

These *Standards for Clinical Social Work Practice* set forth by the National Association of Social Workers (NASW) are intended to guide clinical social workers in all clinical settings. Specifically, the goals of the standards are to:

- maintain or improve the quality of services provided by clinical social workers
- establish professional expectations to assist social workers in monitoring and evaluating their clinical practice
- provide a framework for clinical social workers to assess responsible, professional behavior
- inform consumers, government regulatory bodies, and others about the professional standards for clinical social work practice.

The scope of clinical social work extends across many practice settings and populations. It is anticipated that these standards will reinforce and support current clinical practice in all settings, while affirming the value of clinical social work services as a discrete practice area.

Definitions

Client/Patient/Consumer

Social workers generally use the term "client" to refer to the individual, group, family, or community that seeks or is provided with professional services. The client is often seen as both the individual and the client system or those in the client's environment. The term "consumer" is also used in settings that view the client as the consumer, that is, one capable of deciding what is best for her or himself and encourages self-advocacy and self-judgment in negotiating the social service and welfare system. The term "patient" is more commonly used by social workers employed in health care settings (Barker, 2003). The term patient may also be used for insurance reimbursement purposes in health and mental health settings.

Clinical Social Work

Clinical social work is the professional application of social work theory and methods to the diagnosis, treatment, and prevention of psychosocial dysfunction, disability, or impairment, including emotional, mental, and behavioral disorders (Barker, 2003).

Counseling

This is a procedure that is often used in clinical social work and other professions to guide individuals, families, couples, groups, and communities by such activities as delineating alternatives, helping to articulate goals, and providing needed information (Barker, 2003).

Person-in-Environment Perspective

This orientation views the client as part of an environmental system. It encompasses reciprocal relationships and other influences between an individual, relevant others, and the physical and social environment (Barker, 2003).

Psychodynamic

This word pertains to the cognitive, emotional, and volitional mental processes that consciously and unconsciously motivate an individual's behavior. These processes are the product of the interplay among a person's genetic and biological heritage, the sociocultural milieu, past and current realities, perceptual abilities and distortions, and his or her unique experiences and memories (Barker, 2003).

Psychotherapy

Psychotherapy is a specialized, formal interaction between a social worker or other mental health professional and a client (either individual, couple, family, or group) in which a therapeutic relationship is established to help resolve symptoms of mental disorder, psychosocial stress, relationship problems, and difficulties in coping in the social environment. Types of psychotherapy include,

but are not limited to family therapy, group therapy, cognitive–behavioral therapy, psychosocial therapy, and psychodrama (Barker, 2003).

Therapy

This is a systematic process designed to remedy, cure, or abate some disease, disability, or problem. This term is often used by social workers as a synonym for individual psychotherapy, conjoint therapy, couples therapy, psychosocial therapy, or group therapy (Barker, 2003).

Standards for Clinical Social Work in Social Work Practice

Standard 1. Ethics and Values

Clinical social workers shall adhere to the values and ethics of the social work profession, utilizing the NASW *Code of Ethics* as a guide to ethical decision making.

Interpretation

The social work mission is rooted in six core values: service, social justice, dignity and worth of the person, importance of human relationships, integrity, and competence (NASW, 1999). All social workers have a responsibility to embrace these values as a service to clients, the profession, self, colleagues, and society. In delivering clinical social work services, the social worker's primary responsibility is to his or her client. Clinical social workers shall acknowledge the right of clients to receive competent psychosocial services and demonstrate a commitment to act on professional judgment and convictions,

which are informed by the NASW *Code of Ethics* (1999).

Clinical social workers shall be prepared for the challenges that encompass the assessment and treatment of people with mental disorders and behavioral or emotional disturbances. This includes maintaining a commitment to the client while simultaneously demonstrating responsibility to the practice setting, society, and local, state, and federal policies and regulations governing the social worker's clinical practice. In the event that conflicts arise among competing interests, social workers are directed to the NASW *Code of Ethics* as one of the reference points for decision making. Services should only be provided in a setting in which the professional relationship can be maintained. Clinical social workers should adhere to the NASW *Code of Ethics* with regard to limits on private and/or dual relationships with clients.

Standard 2. Specialized Practice Skills and Interventions

Clinical social workers shall demonstrate specialized knowledge and skills for effective clinical interventions with individuals, families, couples, and groups.

Interpretation

Drawing on knowledge of systems theory, person-in-environment orientation, psychodynamic theory, interpersonal dynamics, and family systems, clinical social workers shall be familiar with social, psychological, cultural, and health factors that influence the mental, emotional, and behavioral functioning of the client. They

shall have knowledge of theories of personality and behavior and be aware of sociocultural and environmental influences, as well as conditions that have an impact on the physical and emotional state of the client.

In addition to the above, clinical social workers shall have the ability to:

- establish and maintain a relationship of mutual respect, acceptance, and trust
- gather and interpret social, personal, environmental, and health information
- evaluate and treat problems within their scope of practice
- establish achievable treatment goals with the client
- facilitate cognitive, affective, and behavioral changes consistent with treatment goals
- evaluate the effectiveness of treatment services provided to the client
- identify appropriate resources and assessment instruments, as needed
- advocate for client services
- collaborate effectively with other social work or allied professionals, when appropriate.

When additional knowledge and skills are required to address clients' needs, the clinical social worker shall seek appropriate training, supervision, or consultation, or refer the client to a professional with the appropriate expertise. Clinical social workers shall limit the scope of their practice to those clients for whom they have the knowledge, skill, and resources to serve. They shall be accountable for all aspects of their professional judgment, behavior, and decisions.

Standard 3. Referrals

Clinical social workers shall be knowledgeable about community services and make appropriate referrals, as needed.

Interpretation

To ensure that clients receive optimal psychosocial services, it is sometimes beneficial to collaborate or coordinate services with appropriate community programs to strengthen or improve the continuity of care. Clinical social workers shall be knowledgeable about available community resources and advocate on behalf of the client for appropriate services. The clinical social worker shall maintain collaborative contacts with social work or other related professionals and make appropriate referrals, as needed. The clinical social worker shall not share information about the client without the client's informed consent or as otherwise indicated in Standard 5.

Standard 4. Accessibility to Clients

Clinical social workers shall be accessible to their clients.

Interpretation

Clinical social workers shall be available to provide clinical services to clients during regularly scheduled appointment times or sessions. In addition, the clinical social worker shall develop emergency plans or be available to the client for emergency coverage during vacations, holidays, illnesses, and at other times when the office may be closed. Arrangements or plans and procedures for emergency coverage shall be made in partnership with competent mental health

professionals or reputable institutions and should be discussed with the client at the initial face-to-face interview.

In addition, the office setting should be accessible and/or have helping devices for persons with disabilities, or office limitations should be discussed prior to scheduling appointments.

Standard 5. Privacy and Confidentiality

Clinical social workers shall maintain adequate safeguards for the private nature of the treatment relationship.

Interpretation:

Confidentiality is a basic principle of social work intervention. It ensures the client that what is shared with the social worker will remain confidential, unless there is an ethical or legal exception. All information related to or obtained from the client by the clinical social worker shall be viewed as private and confidential. Clinical social workers shall be familiar and comply with local, state, and federal mandates governing privacy and confidentiality, such as the federal Health Insurance Portability and Accountability Act (HIPAA) requirements and state medical records laws.

Information obtained by the social worker from or about the client shall be viewed as private and confidential, unless the client gives informed consent for the social worker to release or discuss the information with another party. There may be other exceptions to confidentiality as required by law or professional ethics. Social workers should be

familiar with national, state, and local exceptions to confidentiality, such as mandates to report when the client is a danger to self or others and for reporting child or elder abuse and neglect. The clinical social worker shall advise the client of confidentiality limitations and requirements at the beginning of treatment.

Professional judgment in the use of confidential information shall be based on best practice, as well as legal, and ethical considerations.

Standard 6. Supervision and Consultation

Clinical social workers shall maintain access to professional supervision and/or consultation.

Interpretation

Clinical social workers should ensure that professional social work supervision is available to them in a clinical setting for the first five years of their professional experience (NASW, 2004). If clinical social worker supervisors are not available or accessible, case consultation may be obtained from qualified professionals of other related disciplines. Those clinical social workers with more than five years of clinical experience shall use consultation on an as-needed, self-determined basis. Clinical social workers shall adhere to state and federal statutes and regulations regarding supervision and consultation in their states of practice.

When appropriate, clinical social workers should offer their expertise to individuals, groups, and organizations, as well as offer training and mentoring opportunities to

beginning social workers or those making the transition into clinical social work. In addition, experienced clinical social workers who are able should offer supervision to social workers seeking state licensure for clinical social work practice.

Standard 7. Professional Environment and Procedures

Clinical social workers shall maintain professional offices and procedures.

Interpretation

Agencies providing clinical social work services and clinical social workers in private or independent practice shall develop and implement written policies that describe their office procedures, such as the client's rights, including the right to privacy and confidentiality; notices and authorizations; procedures for release of information, fee agreements; procedures for payment; cancellation policy; and coverage of services during emergency situations or when the clinical social worker is not available. These policies shall be made available to and reviewed with each client at the beginning of treatment. Clinical social workers should maintain appropriate liability insurance and have a current working knowledge of risk management issues.

In addition to the above, the treatment setting shall be properly maintained to ensure a reasonable degree of comfort, privacy, and security for the social worker and the client.

Standard 8. Documentation

Documentation of services provided to, or on behalf of, the client shall be recorded in the client's file or record of services.

Interpretation

Clinical social workers must document all services rendered to clients and keep the records in a secure location, maintaining them as private and confidential records. Documentation must reflect an accurate account of services. Progress notes, reports, and summaries of services shall be regularly recorded in the client's file and be consistent with all applicable local, state, and federal statutory, regulatory, or policy requirements. Records must meet current federal provisions regarding privacy, security, and electronic transactions standards and code sets.

Standard 9. Independent Practice

Clinical social workers shall have the right to establish an independent practice.

Interpretation:

Clinical social workers may establish an independent solo or group practice. When doing so, they shall ensure that all services, including diagnostic and treatment planning, meet professional standards. When clinical social workers employ staff, they, as employers, bear responsibility for the competency of all services provided; maintaining clinical and ethical standards; and upholding all local, state, and federal regulations.

To avoid conflicts of interest, clinical social workers who are both employed by agencies

and have independent practices shall not refer agency clients to themselves without prior agreement with the agency and consent of the client. In addition, the clinical social worker shall have offered alternative options to the client, such as transferring the client to another treatment provider within the agency or terminating services.

Clinical social workers in private or independent practice may bill third-party payers or their clients for services rendered. Clients shall be provided with all invoices and receipts in a timely manner. When a client can no longer afford services—or a third-party payer or an agency terminates services—an alternative mutually agreed upon with the client may be instituted, which could include, for example, a referral, termination of services, a sliding scale, or pro bono services. If services continue, consideration must be given to any applicable federal or state laws and regulations as well as insurance or managed care contracts that may limit the type of continuing care.

When a client chooses to terminate treatment, the clinical social worker will offer to aid the client in exploring barriers to treatment and re-examine the treatment plan to help the client reach termination constructively. When appropriate, the clinical social worker shall refer the client to another qualified treatment provider.

Standard 10. Cultural Competence

Clinical social workers shall demonstrate culturally competent service delivery in accordance with the *NASW Standards for Cultural Competence in Social Work Practice*.

Interpretation

The increasingly diverse population seeking psychosocial services requires that clinical social workers raise their awareness and appreciation of cultural differences. Clinical social workers shall have, and continue to develop, specialized knowledge and understanding about history, traditions, values, and family systems as they relate to clinical practice with individuals, families, and groups. Clinical social workers shall be knowledgeable about and demonstrate practice skills consistent with the *NASW Standards for Cultural Competence in Social Work Practice* (2001). In addition, clinical social workers need to be knowledgeable about the deleterious effects of racism, sexism, ageism, heterosexism or homophobia, anti-Semitism, ethnocentrism, classism, and disability-based discrimination on clients' behavior, mental and emotional well-being, and course of treatment. Clinical social workers must also recognize racial, ethnic, and cultural differences that may be interpreted as barriers to treatment and develop skills to ameliorate such barriers.

Standard 11. Professional Development

Clinical social workers shall assume personal responsibility for their continued professional development in accordance with the *NASW Standards for Continuing Professional Education* and state requirements.

Interpretation

To practice effectively, clinical social workers must remain knowledgeable about emerging theories and interventions, best practice models in the social work profession, and changes in policies and regulatory reforms

such as the HIPAA regulations. Clinical social workers shall seek to enhance their skills and understanding by staying abreast of research to ensure that their practice reflects the most current knowledge. Clinical social workers should also seek continuing education about risk management and professional liability issues.

Numerous opportunities in professional development are available through NASW and other professional organizations or institutions, coalitions, and service agencies at local, state, and national levels. Clinical social workers should regularly participate in and contribute to professional conferences and training activities and contribute to and promote professional publications.

Standard 12. Technology

Clinical social workers shall have access to computer technology and the Internet, as the need to communicate via e-mail and to seek information on the Web for purposes of education, networking, and resources is essential for efficient and productive clinical practice.

Interpretation

Clinical social workers are increasingly using the Web, computers, and other electronic technology to improve the quality of services for clients, to communicate with other professionals, and for documentation purposes. Clinical social workers should keep abreast of electronic changes that may affect practice. Technology may be integrated into clinical practice; however, appropriate safeguards for client privacy shall be used.

Clinical social workers should engage in ongoing training in technology applications relevant to clinical social work practice including assessment and treatment, research, policy, education, and resource tracking and development.

Free information on the Standards is located on the NASW Web site: www.socialworkers.org.

Purchase full document from NASW Press at 1.800.227.3590.

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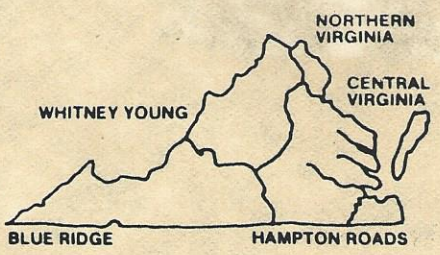
VIRGINIA CHAPTER

NASW

NATIONAL ASSOCIATION OF SOCIAL WORKERS INC.



Resolution of Appreciation

Whereas

Joseph G. Lynch, ACSW

has played a vital role in mobilizing the membership of the Virginia Chapter of NASW to impress upon the Virginia legislature the importance of recognizing Social Workers as providers of Mental Health Services, and

Whereas a result of these efforts, the Virginia legislature enacted House Bill 1078 in its 1987 session which provides Social Workers and their clients access to insurance benefits without restrictions, and

Whereas the passage of this legislation will have far reaching effects in promoting the advancement of Social Work Practice, therefore

Be it resolved that the Board of Directors of the Virginia Chapter of the National Association of Social Workers expresses to

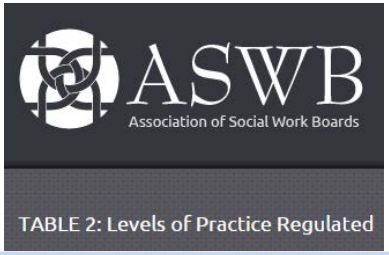
him

its sincere appreciation for your continuing efforts and dedicated service in helping Social Workers to achieve parity.

Dr. Bernard Pendleton, ACSW

President, Virginia Chapter of National Association of Social Workers Board of Directors

Date: June 11, 1987



Social Work Laws & Regulations Comparison Guide.

STATE	INITIALS	EDUCATION	EXPERIENCE	EXAM REQUIRED	BOARD APPROVAL
Alabama					
Private Independent Practice (Certif.)	PIP	DSW/MSW	2 yrs POST	N/R	Not applicable
Licensed Certified Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Graduate Social Worker	LGSW	DSW/MSW	0	Masters	Yes
Licensed Bachelor Social Worker	LBSW	BSW	0	Bachelors	Yes
Alaska					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Master Social Worker	LMSW	DSW/MSW	0	Masters	Yes
Licensed Baccalaureate Social Wkr	LBSW	BSW	0	Bachelors	Yes
Alberta					
Registered Social Worker-Clinical	RSW	DSW/MSW	2 yrs POST	Clinical	Yes
Registered Social Worker	RSW	SW degree or diploma	1500 hrs	Associates/Bachelors/Masters	Not applicable
Arizona					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Master Social Worker	LMSW	DSW/MSW	0	Masters	Yes
Licensed Bachelor Social Worker	LBSW	BSW	0	Bachelors	Yes

Arkansas					
Licensed Certified Social Worker	LCSW	MSW	2 yrs POST	Clinical	Yes
Licensed Master Social Worker	LMSW	MSW	0	Masters	Yes
Licensed Social Worker	LSW	BSW	0	Bachelors	Yes
British Columbia					
Registered Social Worker	RSW	BSW/MSW	0	N/R	Yes
Registered Clinical Social Worker	RCSW	MSW	3000 hrs POST	Clinical	Yes
California					
Licensed Clinical Social Worker	LCSW	MSW	2 yrs POST	N/R	Not applicable
Associate Clinical Social Worker	ASW	MSW	0	N/R	Not applicable
Colorado					
Licensed Clinical Social Worker	LCSW	DSW/MSW	1 yr/2 yrs POST	Clin / Adv Gen	Yes
Licensed Social Worker	LSW	MSW	0	Masters/Adv Gen/Clinical	Yes
Connecticut					
Licensed Clinical Social Worker	LCSW	DSW/MSW	3000 hrs POST	Clinical	Yes
Delaware					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
District of Columbia					
Licensed Independent Clinical Social Worker	LICSW	DSW/MSW	3000 hrs POST	Clinical	Yes
Licensed Independent Social Worker	LISW	DSW/MSW	3000 hrs POST	Advanced Generalist	Yes
Licensed Graduate Social Worker	LGSW	DSW/MSW	0	Masters	Yes
Licensed Social Work Associate	LSWA	BSW	0	Bachelors	Yes

Florida					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Certified Master Social Worker	CMSW	MSW	2 yrs POST	Masters	Yes
Georgia					
Licensed Clinical Social Worker	LCSW	MSW	3 yrs POST	Clinical	Yes
Licensed Master Social Worker	LMSW	MSW	0	Masters	Yes
Hawaii					
Licensed Clinical Social Worker	LCSW	DSW/MSW	3000 hrs POST	Clinical	Yes
Licensed Social Worker	LSW	DSW/MSW	0	Masters	Yes
Licensed Bachelor Social Worker	LBSW	BSW	0	Bachelors	Yes
Idaho					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Master Social Worker-Independent	LMSWI	DSW/MSW	2 yrs POST	Masters	Yes
Licensed Master Social Worker	LMSW	DSW/MSW	0	Masters	Yes
Licensed Social Worker Independent	LSWI	BSW	2 yrs POST	Bachelors	Yes
Licensed Social Worker	LSW	BSW	0	Bachelors	Yes
Illinois					
Licensed Clinical Social Worker	LCSW	DSW	2000 hrs POST	Clinical	Yes
Licensed Clinical Social Worker	LCSW	MSW	3000 hrs POST	Clinical	Yes
Licensed Social Worker	LSW	MSW	0	Masters	Yes
Licensed Social Worker	LSW	BSW	3 yrs POST	Masters	Yes

Indiana					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Social Worker	LSW	MSW	0	Masters	Yes
Licensed Social Worker	LSW	BSW	2 yrs POST	Masters	Yes
Iowa					
Licensed Independent Social Worker	LISW	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Master Social Worker	LMSW	DSW/MSW	0	Masters	Yes
Licensed Bachelor Social Worker	LBSW	BSW	0	Bachelors	Yes
Kansas					
Licensed Specialist Clinical Social Worker	LSCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Master Social Worker	LMSW	MSW	0	Masters	Yes
Licensed Bachelor Social Worker	LBSW	BSW	0	Bachelors	Yes
Kentucky					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Certified Social Worker	CSW	DSW/MSW	0	Masters	Yes
Licensed Social Worker	LSW	BSW	0	Bachelors	Yes
Licensed Social Worker	LSW	BA	2 yrs POST	Bachelors	Yes
Louisiana					
Registered Social Worker	RSW	BSW/BA/BS	0	N/R	Yes
Certified Social Worker	CSW	MSW	0	N/R	Yes
Licensed Master Social Worker	LMSW	MSW	0	Masters	Yes
Licensed Clinical Social Worker	LCSW	MSW	3 yrs POST	Clinical	Yes

Maine					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	No
Certified Social Worker-Independent Practice	CSW-IP	DSW/MSW	2 yrs POST	Clinical	No
Licensed Master Social Worker	LMSW	DSW/MSW	0	Masters	No
Licensed Master Social Worker-Clinical Conditional	LMSW-CC	DSW/MSW	2 yrs POST	Masters	No
Licensed Social Worker	LSW	BSW	0	Bachelors	No
Licensed Social Worker	LSW	BA/BS in related field	3200 hrs	Bachelors	No
Licensed Social Worker-Conditional	LSX	BA/BS in related field	2 yrs POST	N/R	No
Manitoba					
Registered Social Worker	RSW	BSW/MSW	0	N/R	Not applicable
Maryland					
Licensed Certified Social Worker-Clinical	LCSW-C	MSW	2 yrs POST LGSW	Clinical	Yes
Licensed Certified Social Worker	LCSW	MSW	2 yrs POST LGSW	Advanced Generalist	Yes
Licensed Graduate Social Worker	LGSW	MSW	0	Masters	Yes
Licensed Social Work Associate	LSWA	BSW	0	Bachelors	Yes

Massachusetts					
Licensed Independent Clinical Social Worker	LICSW	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Certified Social Worker	LCSW	DSW/MSW	0	Masters	Yes
Licensed Social Worker	LSW	BSW	0	Bachelors	Yes
Licensed Social Worker	LSW	BA/BS	2 yrs	Bachelors	Yes
Licensed Social Worker	LSW	HS Diploma	10 yrs	Bachelors	Yes
Licensed Social Worker	LSW	1 yr college	8 yrs	Bachelors	Yes
Licensed Social Worker	LSW	2 yrs college	6 yrs	Bachelors	Yes
Licensed Social Worker	LSW	2.5 yrs college	5 yrs	Bachelors	Yes
Licensed Social Work Associate	LSWA	AA	0	Associate	Yes
Licensed Social Work Associate	LSWA	BA/BS	0	Associate	Yes
Licensed Social Work Associate	LSWA	HS Diploma	0	Associate	Yes
Michigan					
Licensed Master Social Worker-Clinical	LMSW-C	MSW	2 yrs POST	Clinical	Yes
Licensed Master Social Worker-Macro	LMSW-M	MSW	2 yrs POST	Advanced Generalist	Yes
Licensed Bachelor Social Worker	LBSW	BSW	2 yrs POST	Bachelors	Yes
Social ServiceTechnician	SST	Associates degree in SW	350 hours	N/R	Yes
Social ServiceTechnician	SST	2 yrs college w/4 courses in human services	0	N/R	Yes
Social ServiceTechnician	SST	HS Diploma	2000 hours over at least 1 year	N/R	Yes

Minnesota					
Licensed Independent Clinical Social Worker	LICSW	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Independent Social Worker	LISW	DSW/MSW	2 yrs POST	Advanced Generalist	Yes
Licensed Graduate Social Worker	LGSW	DSW/MSW	0	Masters	Yes
Licensed Social Worker	LSW	BSW	0	Bachelors	Yes
Mississippi					
Licensed Certified Social Worker-Clinical	LCSW-C	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Certified Social Worker	LCSWMac	DSW/MSW	2 yrs POST	Advanced Generalist	Yes
Licensed Master Social Worker	LMSW	DSW/MSW	0	Masters	Yes
Licensed Social Worker	LSW	BSW	0	Bachelors	Yes
Missouri					
Licensed Baccalaureate Social Wkr	LBSW	BSW	3000 hrs POST	Bachelors	Yes
Provisional Baccalaureate Social Worker	PBLSW	BSW	0	Bachelors	Yes
Licensed Master Social Worker	LMSW	MSW	0	Masters	Yes
Licensed Advanced Macro Social Worker	LAMSW	DSW/MSW	3000 hrs POST	Advanced Generalist	Yes
Licensed Baccalaureate Soc Wkr-Indep. Practice	LABSW-IP	BSW	3000 hrs POST	Bachelors	Yes
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Provisional Licensed Clinical Social Worker	PLCSW	DSW/MSW	0	Clinical	Yes
Montana					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes

Nebraska					
Licensed Mental Health Practitioner	LMHP	DSW/MSW	3000 hrs POST	Clinical	Yes
Certified Master Social Worker	CMSW	DSW/MSW	3000 hrs POST	Clin / Adv Gen	Yes
Certified Social Worker	CSW	BSW/MSW	0	N/R	Yes
Nevada					
Licensed Clinical Social Worker	LCSW	DSW/MSW	3000 hrs POST	Clinical	Yes
Licensed Independent Social Worker	LISW	DSW/MSW	3000 hrs POST	Advanced Generalist	Yes
Licensed Social Worker	LSW	BSW/MSW	0	Bachelors / Masters	Yes
New Brunswick					
Registered Social Worker	RSW	BSW/MSW	0	N/R	Not applicable
New Hampshire					
Licensed Independent Clinical Social Worker	LICSW	DSW/MSW	2 yrs POST	Clinical	Yes
New Jersey					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Social Worker	LSW	DSW/MSW	0	Masters	Yes
Certified Social Worker	CSW	BSW	0	N/R	No
Certified Social Worker	CSW	BA/BS in related field	1600 hours over 18 mos., prior to 1995 ONLY	N/R	No
New Mexico					
Licensed Independent Social Worker	LISW	MSW	2 yrs POST	Clin / Adv Gen	Yes
Licensed Master Social Worker	LMSW	MSW	0	Masters	Yes
Licensed Baccalaureate Social Wkr	LBSW	BSW	0	Bachelors	Yes

New York					
Licensed Clinical Social Worker	LCSW	MSW	3 yrs POST	Clinical	Yes
Licensed Master Social Worker	LMSW	MSW	0	Masters	Yes
Newfoundland & Labrador					
Registered Social Worker	RSW	DSW/MSW/BSW	0	N/R	Not applicable
North Carolina					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Certified Master Social Worker	CMSW	DSW/MSW	0	Masters	Yes
Certified Social Worker	CSW	BSW	0	Bachelors	Yes
Certified Social Work Manager	CSWM	DSW/MSW/BSW	2 yrs POST	Advanced Generalist	Yes
North Dakota					
Licensed Independent Clinical Social Worker	LICSW	DSW/MSW	4 yrs POST	Clinical	Yes
Licensed Certified Social Worker	LCSW	DSW/MSW	0	Masters	Yes
Licensed Social Worker	LSW	BSW	0	Bachelors	Yes
Nova Scotia					
Registered Social Worker	RSW	DSW/MSW/BSW	2 yrs POST	N/R	Not applicable
Registered Social Worker Candidate	RSW-C	DSW/MSW/BSW	0	N/R	Not applicable
Registered Social Worker - Private Practice	RSW-P	DSW/MSW	4 yrs POST	N/R	Not applicable
Ohio					
Licensed Independent Social Worker	LISW	DSW/MSW	2 yrs POST	Clin / Adv Gen	Yes
Licensed Social Worker	LSW	DSW/MSW/BSW	0	Bachelors	Yes
Registered Social Work Assistant	SWA	AAS	0	N/R	Yes

Oklahoma					
Licensed Clinical Social Worker	LCSW	MSW	2 yrs POST	Clinical	Yes
Licensed Social Worker-Administration	LSW	MSW	2 yrs POST	Advanced Generalist	Yes
Licensed Social Worker	LSW	MSW	2 yrs POST	Advanced Generalist	Yes
Licensed Master Social Worker	LMSW	MSW	0	Masters	Yes
Licensed Social Work Associate	LSWA	BSW	2 yrs POST	Bachelors	Yes
Ontario					
Registered Social Worker	RSW	DSW/MSW/BSW	0	N/R	Not applicable
Oregon					
Licensed Clinical Social Worker	LCSW	MSW	2 yrs POST	Clinical	Yes
Clinical Social Work Associate	CSWA	MSW	0	N/R	Yes
Licensed Master Social Worker	LMSW	MSW	0	Masters	Yes
Registered Baccalaureate Social Worker	RBSW	BSW	0	Bachelors	Yes
Pennsylvania					
Licensed Clinical Social Worker	LCSW	MSW	3 yrs POST or 3600 hours	Clinical	Yes
Licensed Social Worker	LSW	MSW	0	Masters	Yes
Provisional Social Worker	PSW	BSW	0	Bachelors	Yes
Prince Edward Island					
Registered Social Worker	RSW	BSW	0	N/R	Not applicable
Puerto Rico					
Licensed Social Worker	LSW	DSW/MSW	2 yrs POST	N/R	Not applicable

Quebec					
Social Worker	SW	BSW/MSW	0	N/R	Not applicable
Rhode Island					
Licensed Independent Clinical Social Worker	LICSW	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Clinical Social Worker	LCSW	MSW	0	Masters	Yes
Saskatchewan					
Registered Social Worker	RSW	Certificate in social work	0	N/R	Not applicable
South Carolina					
Licensed Independent Social Worker-AP	LISW-AP	DSW/MSW	2 yrs POST	Advanced Generalist	Yes
Licensed Independent Social Worker-CP	LISW-CP	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Master Social Worker	LMSW	DSW/MSW	0	Masters	Yes
Licensed Baccalaureate Social Wkr	LBSW	BSW	0	Bachelors	Yes
South Dakota					
Private Independent Practice	CSW-PIP	DSW/MSW	2 yrs POST	Clinical	Yes
Certified Social Worker	CSW	DSW/MSW	0	Masters	Yes
Social Worker	SW	BSW	0	Bachelors	Yes
Social Worker	SW	BA	2 yrs POST	Bachelors	Yes
Social Work Associate	SWA	AA/BA	0	Associate	Yes
Tennessee					
Licensed Baccalaureate Social Wkr	LBSW	BSW	0	Bachelors	Yes
Licensed Master Social Worker	LMSW	DSW/MSW	0	Masters	Yes
Licensed Advanced Practice Social Worker	LAPSW	DSW/MSW	2 yrs POST	Advanced Generalist	Yes
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes

Texas					
Licensed Clinical Social Worker	LCSW	DSW/MSW	3000 hrs POST	Clinical	Yes
Licensed Master Social Worker-Advanced Practice	LMSW-AP	DSW/MSW	3000 hrs POST	Advanced Generalist	Yes
Licensed Master Social Worker	LMSW	DSW/MSW	0	Masters	Yes
Licensed Baccalaureate Social Wkr	LBSW	BSW	0	Bachelors	Yes
Utah					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Certified Social Worker	CSW	DSW/MSW	0	Masters/Adv Gen/Clinical	Yes
Social Service Worker	SSW	DSW/MSW/BSW	0	Bachelors	Yes
Social Service Worker	SSW	BA	1 yr	Bachelors	Yes
Vermont					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Virgin Islands					
Certified Independent Social Worker	CISW	DSW/MSW	2 yrs POST	Clin / Adv Gen	Yes
Certified Social Worker	CSW	DSW/MSW	0	Masters	Yes
Social Worker	SW	BSW	0	Bachelors	Yes
Social Worker	SW	BA	2 yrs POST	Bachelors	Yes
Social Work Associate	SWA	AA/BA	0	Bachelors	Yes
Virginia					
Licensed Clinical Social Worker	LCSW	MSW	2 yrs POST	Clinical	Yes
Licensed Social Worker	LSW	MSW	0	Bachelors	Yes
Licensed Social Worker	LSW	BSW	2 yrs POST	Bachelors	Yes

Washington					
Licensed Independent Clinical Social Worker	LICSW	DSW/MSW	3 yrs POST	Clinical	Yes
Licensed Advanced Social Worker	LASW	DSW/MSW	2 yrs POST	Advanced Generalist	Yes
West Virginia					
Licensed Independent Clinical Social Worker	LICSW	DSW/MSW	2 yrs POST	Clinical	Yes
Licensed Certified Social Worker	LCSW	DSW/MSW	2 yrs POST	Advanced Generalist	Yes
Licensed Graduate Social Worker	LGSW	MSW	0	Masters	Yes
Licensed Social Worker	LSW	BSW	0	Bachelors	Yes
Wisconsin					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clinical	Yes
Certified Independent Social Worker	CISW	DSW/MSW	2 yrs POST	Advanced Generalist	Yes
Certified Advanced Practice Social Worker	CAPSW	DSW/MSW	0	Masters	Yes
Certified Social Worker	CSW	BSW/MSW	0	Bachelors	Yes
Wyoming					
Licensed Clinical Social Worker	LCSW	DSW/MSW	2 yrs POST	Clin / Adv Gen	Yes
Provisional Clinical Social Worker	PCSW	DSW/MSW	2 yrs POST	N/R	Yes
Certified Social Worker	CSW	BSW	0	Bachelors / Masters	Yes

Mid-level licensure question

Inbox x

Joseph G Lynch <lynchj@newmanavenue.com> Jun 30

to dhymans, bcc: me

Dear Dwight:
We emailed each other a few years ago about pass rates for Virginia schools. I served on the Virginia board for 10 years in the 1980's.
I attended a VBSW regulatory committee meeting recently in which there was some discussion about "mid-level" licensure. Staff member Sarah Georgen reported that 36 states had some version of "mid-level" licensure. I looked at the ASWB website and found a state comparison of levels of license. But I didn't find anything called "mid-level" licensure. Can you provide me with any information from ASWB on "mid- level" licensure ?
Thanks,
Joe Lynch

Sent from my iPhone

J Henkel <JHenkel@aswb.org>

to me, D

Joe-
Dwight forwarded your email to me. Based on my conversations with Sarah Georgen, I believe that Virginia's mid-level licensure and the Licensed Master's Social Worker (LMSW) are the same. The LMSW is what is used in the ASWB Model Practice Act. By using the Model Act our members (social work regulatory bodies) can facilitate greater standardization of terminology and regulation from jurisdiction to jurisdiction. Greater standardization promotes increased public understanding of social work, and increased mobility for qualified social workers. Standardization also promotes consistency in legal decision related to licensure.

There are a variety of paths to enter practice at the LMSW level. There is also a broad definition of scopes of practice. The degree at this level would be an MSW from an accredited school of social work.

From ASWB's Model Practice Act:
Section 105. Practice of Master's Social Work. Subject to the limitations set forth in Article III, Section 306, the practice of Master's Social Work means the application of social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. Master's Social Work practice includes the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, counseling, supervision, consultation, education, research, advocacy, community organization and the development, implementation, and administration of policies, programs and activities. Under supervision as provided in this act, the practice of Master's Social Work may include the practices reserved to Clinical Social Workers.
https://www.aswb.org/wp-content/uploads/2013/10/Model_law.pdf
The specific term LMSW is used in the Model Act and 21 jurisdictions as well. However, there are a variety of titles being used across ASWB's membership. There are a variety footnotes and other paths to entry that also may be explored. However, for simplicity sake, there are 43 states that license at the master's level. Across those 43 states there are different Master's licenses. There are links to all of the laws and regulations listed on our website aswb.org, so if you would like to gather more in depth language from each state that information is available to you.

I hope this information is helpful to you. Please let me know if you need anything further.
Regards,

Jennifer

Jennifer Henkel, LCSW
Director of Member Services
Association of Social Work Boards
400 Southridge Parkway, Suite B
Culpeper, Virginia 22701
Phone 800.225.6880 ext. 3005

Council on Licensure, Enforcement and Regulation (CLEAR)

Framework for Developing Consistent Descriptions of Regulatory Models:
United States

This document provides a broad overview of the model(s) of regulation for professions and occupations. It is brief by design and aims to introduce the reader to the model(s) in place. The author is involved in professional and occupational regulation in the country discussed and their contribution is gratefully acknowledged. This project was initiated by the International Relations Committee of the Council on Licensure, Enforcement and Regulation (CLEAR), from where additional resources can be located at http://www.clearhq.org/links.htm

General Question:

1. **Is the regulatory model consistent for each profession and occupation, or are there substantial differences?**
    - The regulatory model is broadly consistent for each profession, though differences in the organization of regulatory boards exist.

Philosophy/Purpose

2. **Describe the primary purpose of the model (e.g., public protection).**
    - Broadly speaking, state governments are only interested in regulating professions where there is a potential to harm the public's heath, safety and/or welfare if the profession is practiced by unqualified professionals.

Government Structure

3. **Describe how regulatory entities are organized (e.g. nationally, by state, province, municipality etc).**
    - Regulatory entities are organized by State as directed by the 10th Amendment of the U.S. Constitution. In each state, the legislature provides the Executive branch with legislation that creates regulatory entities and typically provides some funding.

4. **Explain how regulatory entities interact and share power with other branches of government.**
    - State and Federal governments operate on a three part, balance of power model, which divides powers across the three branches of government: Legislative; Executive; and Judicial. Each branch is separate and distinct from the others, and each serves as a check on the potential excesses of the others. It is the Executive branch of government that administers the regulation process.

Authority Basis

5. **On what legal basis is the authority of regulatory entities derived?**

- Federal Government: The United States Constitution grants to the states those powers not enumerated in the Federal Constitution and has always been interpreted as allowing states to regulate professions. The 10th Amendment declares that: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The role of the Federal Government is limited to interstate commerce by Article 1, Section 8 which states: "The Congress shall have Power…to regulate Commerce…among the several States…"

Regulation Creation Framework

6. **Describe how the legislative process works when creating the authority for regulatory entities.**
    - State legislatures create the framework for regulation through a system commonly referred to as the legislative process.

7. **Explain how public involvement and comment is incorporated into the process.**
8. **Describe how professionals and consumers influence regulations.**
9. **Explain how political involvement influences regulations.**
    - *Response to questions 7-9:* Legislators propose legislation that has been called for by constituents who feel the proposed legislation is needed. It is only at this point that a legislator will make a decision as to whether or not he/she will author a bill. The process begins when a legislator decides to propose legislation and sets about authoring a bill. The legislator sends the proposal to the legislative counsel, where it is drafted into a bill. Upon the return of the bill to the legislator, the bill is introduced to the legislature and is then considered by a committee with appropriate expertise in the subject matter. During this committee stage, there is an opportunity for testimony by parties that would be affected or who are in some way interested. Lobbying by professionals and those impacted by the profession will often occur when the bills relate to the regulation of a profession, and political influence is sometimes brought to bear. The committee then votes on the proposed bill, either approving it as is, amending it, or defeating it. Prior to the vote, an analysis of the bill is often prepared, detailing the current law, the intent of the new bill as well as other general information. A list of organizations supporting and opposing the bill is also frequently created.

      Bills approved or amended are read again in the legislature, before a date is assigned for a third reading. At the time of the third reading, the author argues for the passage of the bill, before a roll-call vote is held. If a bill is approved in the house* in which is was introduced, it then proceeds to the remaining house* where the same procedure takes place. If the bill is amended in the second house*, it returns to the original house where the amendments must be approved. If they cannot be, a joint committee from both House* and Senate* is formed to address the differences. If agreement is reached, the bill returns to both houses*[1] for approval.

      Upon approval by the Legislature, the bill moves to the Executive Branch where the Governor considers whether to sign the bill into law, allow it to become law without signature, or to veto it. A Governor's veto can be overcome by a two-

* Except in Nebraska which has a single legislative branch.

thirds vote in both legislative houses. Generally, bills take effect in January of the following year.

Regulatory Entities

10. **Illustrate how regulatory entities (e.g., board, agency, college) are typically constituted and the degree to which they include practitioners, the public, and other stakeholders.**
11. **Detail how participants in the regulatory process are typically appointed to regulatory entities.**
12. **Give examples of administrative and disciplinary functions typically undertaken by regulatory entities.**
13. **Describe the typical funding structure of regulatory entities.**
14. **Indicate how much autonomy regulatory entities enjoy.**

- *Response to questions 10-14:* The constitution of regulatory boards varies, but typically includes members representing:
  - Individual practitioners from the profession or occupation being regulated;
  - Public members to represent the consumer; and
  - Other members for example, members of a complimentary profession

  Examples of board membership vary from the Alabama State Board of Optometry, where there appear to be a high number of practitioners, to the Michigan Board of Architects whose nine voting members consist of 5 architects, 1 engineer, 1 surveyor and 2 public members. Meanwhile, California's Contractor Licensing Board has 15 members include, 9 public members, 5 contractor members, and 1 labor representative. The process by which members are appointed to serve on regulatory boards varies across the country, with election to the board by licensed members or appointment by the governor and/or legislature being the most common.

  Regulatory boards are typically staffed by an Executive Director who carries out the work as directed by the board. The Executive Director usually employs a staff whose functions may include: investigating complaints against licensees; administering a continuing education program; and issuing and renewing licenses. Licensing boards are usually funded by a combination of fees charged to licensees when applying for initial licensure or when renewing their license, and funding appropriated by the state legislature.

  States organize their regulatory functions through either a collective umbrella organization (referred to as a central agency), by a series of independent and autonomous boards, or a combination of the two. Central agencies frequently combine administrative functions, while autonomous boards employ staff directly to work only for themselves. Examples of central agencies are the Iowa Bureau of Professional Licensure, part of that state's Department of Health, which includes 18 regulatory boards overseeing the regulation of more than 30 professions. Similarly, the Utah Division of Occupational and Professional Licensing issues licenses in around 60 licensure categories and yearly reviews 20,000 applications on average and processes approximately 70,000 renewal applications. By contrast, the State of Oregon's regulatory boards operate independently, each performing the administrative functions mentioned previously.

Federations of Regulatory Boards exist to foster exchanges of information about regulatory best practice. Typically these are financed through membership dues from member boards, though a number also provide a national examination which is required for initial state licensure as a demonstration of basic competence. Examples include the Federation of State Boards of Physical Therapy or the National Council of Architectural Registration Boards.

15. Describe the relationship between regulatory entities and the professional membership organization, where different.

- Broadly speaking, professional associations tend to represent the interests of the professionals themselves, as well as issues affecting the practice of the profession. In contrast, regulatory entities exist to protect the public interest and members of the public as mandated by legislation.

Practice Requirements

Broadly speaking, prior to beginning practice in a regulated profession or occupation, do requirements exist that must be met in the following areas:

16. education and training;

17. background checks;

18. experience;

19. examination(s) a candidate must pass;

- *Response to questions 16-19:* Educational requirements vary by profession and occupation but the requirement of a demonstration of basic competence is universal for initial regulation. Frequently, this takes the form of successfully completing an examination, a prescribed educational course, or applying for admission to a register of members of a profession or occupation.

  In some instances, previous practice in a profession or occupation can allow an applicant for initial regulation to bypass some of the requirements outlined above. Others may require practice in a given field prior to approving the application of a potential applicant. For example, the Montana Board of Realty Regulation requires two years experience as a licensed Real Estate Salesperson and the completion of a certain number of real estate or commercial transactions in the three years prior to applying for licensure, in order to be licensed as a Real Estate Broker.

  Background checks also frequently form part of the application process, particularly for licensees working with vulnerable clients, but also out of security concerns. Examples of requirements and this part of the application process include the Wisconsin Caregiver Program. Background checks might include self-disclosure forms as well as checks on credentials, and criminal history checks, as well as checks of disciplinary databases where available.

20. continuing competence requirements for renewing practitioners;

- Having achieved regulation for the first time, members of regulated professions and occupations are often required to maintain currency in the profession. This is a condition many regulatory boards require to renew the license, certification or registration of an individual and can take the form of hours spent undertaking certain procedures, or can be demonstrated through taking accredited education programs. As part of the continuing regulation of an individual,

renewal fees are normally assessed and further background checks may be undertaken. The Iowa Professional Licensure Bureau's renewal process for Physical Therapists and Occupational Therapists contains many of the requirements outlined above.

21. fees practitioners must pay for entry to the profession;
- Fees vary widely by profession, occupation and state.

22. fees practitioners pay as part of continuing practice requirements;
- Fees vary widely by profession, occupation and state.

23. language(s) in which practitioners are expected to be proficient;
- English

24. conduct that could cause withdrawal of a practitioner's right to practice?
- A variety of actions may be defined as professional misconduct, which in the most serious cases can cause withdrawal of a practitioner's right to practice. An extensive definition can be found on the website of the New York State Department of Health. Practitioners deemed to be either incompetent or incapable (physically or mentally) may also see their right to practice withdrawn.

Inter-Jurisdictional Recognition of Regulation

25. Describe the reciprocity/endorsement/mutual recognition that exists with other government entities

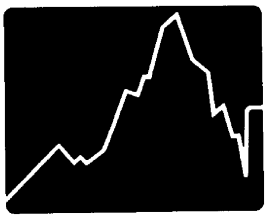
26. Identify international recognition and trade agreements that are affected.
- *Response to questions 25 and 26:* Broadly speaking, regulation takes place in a vacuum in individual states and territories, meaning that the granting of licensure, certification or registration may entitle the regulant to work or practice only in that given territory. Frequently, becoming a resident of another state will require another application to that state's regulatory board and the successful completion of that state's examination. There have been moves towards the recognition of another state's license, most notably in nursing where seventeen states have to date agreed to recognize a license issued in another signatory state as valid for their own. To understand this arrangement, one must remember the U.S. Constitutional provisions setting out the limited role of the Federal Government (which operates nationally) as opposed to the substantial local control enjoyed by the states. Given this separation, states have developed their own standards, practices and examinations in terms of their requirements for regulation.

  Interstate Reciprocity/Endorsement/Mutual Recognition
  Stems from Constitutional requirement:
  "Article IV, Section 2: The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

27. Are regulatory entities typically ISO 17024 accredited?
- Not available

Commonly Used Terms

28. List definitions of technical terms someone outside the regulatory agency may require to better understand the program.



VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS

VIRGINIA BOARD OF HEALTH PROFESSIONS

Policies and Procedures for the Evaluation of the Need to Regulate Health Occupations and Professions

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Introduction

Policies and Procedures for the Evaluation of the Need to Regulate Health Occupations and Professions: 1998 was developed to inform interested parties concerning the Virginia Board of Health Profession's authority to investigate the need for state regulation of health care providers and its approach in conducting such investigations. This report revises and supersedes a document of the same title published in 1992. This revision was prompted by the results of a study mandated by the 1996 Session of the General Assembly as set forth in forth in §54.1-2409.2 of the *Code of Virginia* (see insert).[*] The study required an examination of the appropriateness of the Board's evaluation standards.

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§54.1-2409.2. Board to set criteria for determining need for professional regulation.
The Board of Health Professions shall study and prepare a report for submission to the Governor and the General Assembly by October 1, 1997, containing its findings and recommendations on the appropriate criteria to be applied in determining the need for regulation of any health care occupation or profession. Such criteria shall address at a minimum the following principles:

1. Promotion of effective health outcomes and protection of the public from harm.
2. Accountability of health regulatory bodies to the public.
3. Promotion of consumers' access to a competent health care provider workforce.
4. Encouragement of a flexible, rational, cost-effective heath care system that allows effective working relationships among health care providers.
5. Facilitation of professional and geographic mobility of competent providers.
6. Minimization of unreasonable or anti-competitive requirements that produce no demonstrable benefit.

The Board in its study shall analyze and frame its recommendations in the context of the total health care delivery system, considering the current and changing nature of the settings in which health care occupations and professions are practiced. It shall recognize in its recommendations the interaction of the regulation of health professionals with other areas of regulation, including, but not limited to, the following:

1. Regulation of facilities, organizations, and insurance plans;
2. Health delivery systems data;
3. Reimbursement issues;
4. Accreditation of education programs; and
5. Health workforce planning efforts.

The Board in its study shall review and analyze the work of publicly and privately sponsored studies of reform of health care workforce regulation in other states and nations. In conducting its study the Board shall cooperate with the state academic health science centers with accredited professional degree programs.

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[*] A copy of The *Study of the Appropriate Criteria to be Applied in Determining the Need for Regulation of Any Health Care Occupation or Profession* is available upon request.

Among the findings of this comprehensive study is that the Board's current seven criteria are appropriate: 1) risk of harm to the consumer, 2) specialized skills and training, 3) autonomous practice, 4) scope of practice, 5) economic impact, 6) alternatives to regulation, and 7) least restrictive regulation. A complete description of each is found on page 5. An accompanying finding, however, is that the application of the criteria could be strengthened by factoring in additional quantitative and qualitative evidence-based information.

In response to this finding, the Board now requires in its analysis consideration of a job analysis or role delineation study completed within the last two to three years as well as malpractice insurance coverage information. It is held that consistent review of these two sources of objective information should enable the Board to better apply Criteria One through Five.

Authority

The Virginia Board of Health Professions was established by the General Assembly in 1977 to advise the Governor and the General Assembly on matters related to the regulation of health occupations and professions and to provide policy coordination for the twelve health regulatory boards administered by the Virginia Department of Health Professions. It is comprised of seventeen members appointed by the Governor with five citizen members and a member from each of the twelve health regulatory boards.

The powers and duties of the Board are established in *Code of Virginia* § 54.1-2510. Among these duties is the following:

> **. . . [The Board shall] evaluate all health care professions and occupations in the Commonwealth, including those regulated and those not regulated by other provisions [of Title 54]** ***to consider whether each such profession or occupation should be regulated and the degree of regulation to be imposed*** **[emphasis added]. Whenever the Board determines that the public interest requires that a health care profession or occupation which is not regulated by law should be regulated, the Board shall recommend to the General Assembly a regulatory system to establish the appropriate degree of regulation.**

It must be made clear that the General Assembly, and not the Board, is the body empowered to make the final determination of the need for state regulation of a health care profession or occupation. The General Assembly has the authority to enact legislation specifying the profession to be regulated, the degree of regulation to be

imposed, and the organizational structure to be used to manage the regulatory program (e.g., board, advisory committee, registry).

The Board's role is purely advisory. It has the authority and responsibility to study and make recommendations concerning the need to regulate new (i.e., currently unregulated) occupations and professions (i.e., a "sunrise" review) as well as to routinely re-examine the appropriateness of the regulatory schemes for currently regulated professions and occupations.

Policies

The Board's evaluation policies are grounded in the Commonwealth's philosophy on occupational regulation as expressed in statute and in the Board's own *Criteria for Evaluating the Need for Regulation* (i.e., the Criteria). Alternatives to regulation are also always considered.

Statute

The following statement epitomizes the Commonwealth's philosophy on the regulation of professions and occupations: ***The occupational property rights of the individual may be abridged only to the degree necessary to protect the public.*** This tenet is clearly stipulated in statute and serves as the Board's over-arching philosophy in its approach to all its reviews of professions or occupations:

> **. . . the right of every person to engage in any lawful profession, trade or occupation of his choice is clearly protected by both the Constitution of the United States and the Constitution of the Commonwealth of Virginia. The Commonwealth cannot abridge such rights except as a reasonable exercise of its police powers when it is found that such abridgement is necessary for the preservation of the health, safety and welfare of the public. (*Code of Virginia* §54.1-100)**

Further statutory guidance is provided in this same *Code* section. The following conditions must be met before the state may impose regulation on a profession or occupation:

1. **The unregulated practice of a profession or occupation can endanger the health, safety or welfare of the public, and the potential for harm is recognizable and not remote or dependent upon tenuous argument;**

2. **The practice of the profession or occupation has inherent qualities peculiar to it that distinguish it from ordinary work or labor;**
3. **The practice of the profession or occupation requires specialized skill or training and the public needs, and will benefit by, assurances of initial and continuing professional and occupational ability; and**
4. **The public is not effectively protected by other means.**

In addition, although the General Assembly has established that the following factors be considered in evaluating the need for the regulation of *commercial* occupations and professions, the Board has determined that these factors should be considered in evaluating proposals for the regulation of *health* professions, as well.

1. **Whether the practitioner, if unregulated, performs a service for individuals involving a hazard to public health.**
2. **The opinion of a substantial portion of the people who do not practice the particular profession . . . on the need for regulation.**
3. **[Intentionally deleted]**
4. **Whether there is sufficient demand for the service for which there is no regulated substitute and this service is required by a substantial portion of the population.**
5. **Whether the profession or occupation requires high standards of public responsibility, character and performance of each individual engaged in the profession or occupation, evidence by established and published codes of ethics.**
6. **Whether the profession requires such skill that the public generally is not qualified to select a competent practitioner without some assurance that he has met minimum qualifications.**
7. **Whether the professional or occupational associations do not adequately protect the public from incompetent, unscrupulous or irresponsible members of the profession or occupation.**
8. **Whether current laws which pertain to public health, safety and welfare generally are ineffective or inadequate.**
9. **Whether the characteristics of the profession or occupation make it impractical or impossible to prohibit those practices of the profession or occupation which are detrimental to the public health, safety and welfare.**
10. **Whether the practitioner performs a service for others which may have a detrimental effect on third parties relying on the expert knowledge of the practitioner.**

(*Code of Virginia* §54.1-311(B)1-2, 4-10)

The Criteria and Their Application

Based on the principles of occupational and professional regulation established by the General Assembly, the Board has adopted the following criteria to guide evaluations of the need for regulation of health occupations and professions.

VIRGINIA BOARD OF HEALTH PROFESSIONS
CRITERIA FOR EVALUATING THE NEED FOR REGULATION
Initially Adopted October, 1991
Readopted February, 1998

Criterion One: Risk for Harm to the Consumer
The unregulated practice of the health occupation will harm or endanger the public health, safety or welfare. The harm is recognizable and not remote or dependent on tenuous argument. The harm results from: (a) practices inherent in the occupation, (b) characteristics of the clients served, (c) the setting or supervisory arrangements for the delivery of health services, or (d) from any combination of these factors.

Criterion Two: Specialized Skills and Training
The practice of the health occupation requires specialized education and training, and the public needs to have benefits by assurance of initial and continuing occupational competence.

Criterion Three: Autonomous Practice
The functions and responsibilities of the practitioner require independent judgment and the members of the occupational group practice autonomously.

Criterion Four: Scope of Practice
The scope of practice is distinguishable from other licensed, certified and registered occupations, in spite of possible overlapping of professional duties, methods of examination, instrumentation, or therapeutic modalities.

Criterion Five: Economic Impact
The economic costs to the public of regulating the occupational group are justified. These costs result from restriction of the supply of practitioner, and the cost of operation of regulatory boards and agencies.

Criterion Six: Alternatives to Regulation
There are no alternatives to State regulation of the occupation which adequately protect the public. Inspections and injunctions, disclosure requirements, and the strengthening of consumer protection laws and regulations are examples of methods of addressing the risk for public harm that do not require regulation of the occupation or profession.

Criterion Seven: Least Restrictive Regulation
When it is determined that the State regulation of the occupation or profession is necessary, the least restrictive level of occupational regulation consistent with public protection will be recommended to the Governor, the General Assembly and the Director of the Department of Health Professions.

In the process of evaluating the need for regulation, the Board's seven criteria are applied differently, depending upon the level of regulation which appears most appropriate for the occupational group. The following outline delineates the characteristics of licensure, certification, and registration (the three most commonly used methods of regulation) and specifies the criteria applicable to each level.

Licensure. Licensure confers a monopoly upon a specific profession whose practice is well defined. It is the most restrictive level of occupational regulation. It generally involves the delineation in statute of a scope of practice which is reserved to a select group based upon their possession of unique, identifiable, minimal competencies for safe practice. In this sense, state licensure typically endows a particular occupation or profession with a monopoly in a specified scope of practice.

RISK: High potential, attributable to the nature of the practice.
SKILL & TRAINING: Highly specialized accredited post-secondary education required; clinical proficiency is certified by an accredited body.
AUTONOMY: Practices independently with a high degree of autonomy; little or no direct supervision.
SCOPE OF PRACTICE: Definable in enforceable legal terms.
COST: High
APPLICATION OF THE CRITERIA: When applying for licensure, the profession must demonstrate that Criteria 1 - 6 are met.

Statutory Certification. Certification by the state is also known as "title protection." No scope of practice is reserved to a particular group, but only those individuals who meet certification standards (defined in terms of education and minimum competencies which can be measured) may title or call themselves by the protected title.

RISK: Moderate potential, attributable to the nature of the practice, client vulnerability, or practice setting and level of supervision.
SKILL & TRAINING: Specialized; can be differentiated from ordinary work. Candidate must complete education or experience requirements that are certified by a recognized accrediting body.
AUTONOMY: Variable; some independent decision-making; majority of practice actions directed or supervised by others.
SCOPE OF PRACTICE: Definable, but not stipulated in law.
COST: Variable, depending upon level of restriction of supply of practitioners.
APPLICATION OF CRITERIA: When applying for statutory certification, a group must satisfy Criterion 1, 2, 4, 5, and 6.

Registration. Registration requires only that an individual file his name, location, and possibly background information with the State. No entry standard is typically established for a registration program.

RISK: Low potential, but consumers need to know that redress is possible.
SKILL & TRAINING: Variable, but can be differentiated for ordinary work and labor.
AUTONOMY: Variable.
APPLICATION OF CRITERIA: When applying for registration, Criteria 1, 4, 5, and 6 must be met.

Professions currently practiced only with a license include medicine, nursing, dentistry, pharmacy, optometry, veterinary medicine, and psychology, among others. Rehabilitation

providers and massage therapists are certified by the state. Currently in Virginia, there are no health occupations or professions that are registered.

Alternatives to Occupational and Professional Regulation

When a risk or potential risk has been demonstrated but it is not substantiated that licensure, certification, or registration are appropriate remedies, other alternatives may be warranted. These alternatives should always be considered as less restrictive means of addressing the need to adequately protect the public health, safety, and welfare than restricting the occupational property rights of individuals.

Inspections and injunctions, disclosure requirements, and the strengthening of consumer protection laws and regulations are examples of methods for protecting the public that do not require the regulation of specific occupations or professions.

Procedures

The Board has established general guidelines and procedures for the conduct of its evaluation studies. These procedures are intended to assist in the fair and equitable assessment of the need to regulate a profession or occupation or to determine the need for changing a current regulatory approach. These procedures are aimed at translating the Board's policies into operational terms. Three questions are addressed: Who may request a study and how? How is a study conducted? and What happens to the results?

Who may request a study and how? Requests for the Board to conduct an evaluation may come from a number of sources:

- the General Assembly
  - as a legislative resolution
  - as a request from an individual member,
- the Governor,
- the Director of the Department of Health Professions,
- Professional or Occupational Associations and Organizations,
- Concerned Members of the Public.

For requests from organizations or individuals, the review process commences with a formal letter of intent proposing the study. Because the time frame for such studies can require over a year (from request to recommendations), it is important that a contact person or persons be identified in this letter who will provide continuity to the review process. It should be noted that this time frame does not include consideration of the Board's recommendations by the Governor or General Assembly. Nor does it take into

account the extensive work that must be accomplished between the time the General Assembly may enact enabling legislation and the promulgation of regulations which would be required to implement such legislation.

Prior to filing a request, it is recommended that the responsible individual(s) meet with Director of the Department of Health Professions and the Executive Director for the Board. At this meeting, proposal preparation may be discussed in detail and a suggested timetable agreed upon.

How is a study conducted?

When a request for study is presented to the Board, the Board may agree to go forward or it may ask for additional information from the professional or organizational group in question. If the Board agrees to go forward with the study, the matter is referred to the Regulatory Research Committee, which conducts the study and prepares a report with recommendations for the full Board's review and final recommendations.

The Committee reviews and approves a staff prepared workplan, which details the background for the study, its scope, and the specific methodology to be employed. The specific questions to be addressed are detailed here and reflect those questions outlined in the Appendix. Traditional workplans include a comprehensive review of the relevant literature and provide opportunities for receipt of public comment. In some instances, further information is gathered through Board sponsored surveys of practitioners, other states, or other parties knowledgeable about the issues germane to the profession or occupation.

As discussed earlier, as a result of the recent review on the Criteria, it was determined that the evidentiary basis for application of the Criteria should be strengthened whenever possible. As such, the Board will now routinely refer to recent job analyses (or role delineation studies) and actuarial risk assessments of malpractice insurers.

Commonly used to develop credentialing examinations, a job analysis (or role delineation study) abstracts the knowledge, skills, and abilities that define a profession and help distinguish it from related professions. In its simplest terms, a job analysis provides a detailed job description. An occupation or profession is broken down into performance domains, which broadly define the profession being delineated. Then each performance domain is broken down further into tasks. The tasks are categorized further into knowledge, skills, and ability statements.

Malpractice insurance underwriters establish premium rates and the extent of coverage based upon their actuarial assessment of the risk posed by the insured group. Data on

civil suits, assessments of the type of work and work settings involved in practice, and evaluations of similar professions' claim histories, among other factors are considered.

Job analyses and data derived from malpractice insurance were selected to strengthen the Board's evidentiary basis for three reasons. First, they are generally readily available. Most health occupations and professions have professionally developed examinations based on job analyses, and most professions have malpractice insurance. Second, because they were designed for purposes other than to promote the regulation of the respective profession, these sources are viewed as relatively objective. Third, and most important, they are viewed as providing insight into better applying the most crucial criterion, Criterion One – Risk of Harm to the Consumer.

It has often been difficult or impossible to obtain objective information about actual harm to consumers gathered collectively by profession, precisely because the group is unregulated. The literature is usually unavailing, and evaluation of anecdotal evidence, alone, makes attributions to the profession (and not simply individuals) questionable. Thus, to make fair assessments about the *potential* risks to the public when actual data are lacking, the Board's evaluations of criticality based on recent job analyses and actuarial risk predictions found in the rationale for malpractice insurance coverage will be factored into the reasoning.

Job analyses and actuarial risk predictions are not only useful in applying Criterion One. To appropriately apply the entire Criteria, the Board must have a thorough understanding of what comprises the practice of the profession and the necessary educational and training background required for entry level competency.

To answer the questions posed by the Criteria, the Board will review the job analysis information garnered and apply its own measures of importance or *criticality*. Criticality "generally refers to the extent to which the ability to perform the task is essential to the performance on the job." (National Organization for Competency Assurance (1996) p.54).

To collect data on criticality, Likert-type scales will be used. The scales will vary depending upon specific issues being evaluated. For example, for Criterion One, information about potential harm that would result if the task were not performed competently would need to be evaluated. Scales such as those below would be appropriate. All major tasks will be reviewed, and the data tabulated to provide an overall score on each criterion for consideration by the Board.

Sample Criticality Scales for Rating Risk of Harm

Using the occupation as veterinary technician as an example, the following are sample scales for rating the risk of harm.

TASK 1: Scaling teeth above the gum line.

What is the effect of poor performance on public health & safety?

1. No risk
2. Little risk
3. Some risk
4. Significant risk
5. Severe risk

TASK 2: Preparing patient for surgery by shaving surgical area.

Could this activity be omitted on some occasions without having a major impact on client well-being?

1. Can sometimes omit – This activity could sometimes be omitted for some clients without a substantial risk of unnecessary complications, impairment of function or serious distress.

2. Can never omit – This activity could NEVER be omitted without a substantial risk of unnecessary complications, impairment of function, or serious distress.

Based on Correspondence with Kara Schmidt October 30, 1997 11:35 a.m.

These scores, along with the malpractice insurance risk assessment, literature review, public comment, and any other sources of information the Committee would like to explore will serve as the basis to answer the questions expressed in the workplan. Their responses form the basis for their report and recommendations.

What happens to the results?

Once completed, the Committee's study report including recommendations is forwarded to the full Board. Upon adoption or revision of the report, the Board prepares its report for the consideration of the Director of the Department, the Secretary of Health and Human Resources, the Governor, and the General Assembly.

Once the final draft is approved, the Board or the source of the study may disseminate the report as they deem appropriate.

Appendix

QUESTIONS TO BE CONSIDERED FOR THE EVALUATION OF THE NEED FOR REGULATION OF A HEALTH OCCUPATION OR PROFESSION

A. GENERAL INFORMATION

1. What occupational or professional group is seeking regulation?
2. What is the level or degree of regulation sought?
3. Identify by title the association, organization, or other group representing Virginia-based practitioners. (If more than one organization, provide the information requested below for each organization.)
4. Estimate the number of practitioners (members and nonmembers) in the Commonwealth.
5. How many of these practitioners are members of the group preparing the proposal? (If several levels or types of membership are relevant to this proposal, explain these level and provide the number of members, by type).
6. Do other organizations also represent practitioners of this occupation/profession in Virginia? If yes, provide contact information for these organizations.
7. Provide the name, title, organizational name, mailing address, and telephone number of the responsible contact person(s) for the organization preparing this proposal.
8. How was this organization and individual selected to prepare this proposal?
9. Are there other occupations/professions within the broad occupational grouping? What organization(s) represent these entities? (List those in existence and any that are emerging).
10. For each association or organization listed above, provide the name and contact information of the *national* organizations with which the state associations are affiliated.

B. QUESTIONS WHICH ADDRESS THE CRITERIA

Criterion One: Risk for Harm to the Consumer. *The unregulated practice of the health occupation will harm or endanger the public health, safety or welfare. The harm is recognizable and not remote or dependent on tenuous argument. The harm results from: (a) practices inherent in the occupation, (b) characteristics of the clients served, (c) the setting or supervisory arrangements for the delivery of health services, or (d) from any combination of these factors.*

1. Provide a description of the typical functions performed and services provided by members of this occupational group.
2. Has the public actually been harmed by unregulated providers or by providers who are regulated in other states? If so, how is the evidence of harm documented (i.e., court case or disciplinary or other administrative action)? Was is physical, emotional, mental, social, or financial?
3. If no evidence of actual harm is available, what aspects of the provider group's practice constitute a potential for harm?
4. To what can the harm be attributed? Elaborate as necessary.
    - lack of skills
    - lack of knowledge
    - lack of ethics
    - lack of supervision
    - practices inherent in the occupation
    - characteristics of the client/patients being served
    - characteristics of the practice setting
    - other (specify)

5. Does a potential for fraud exist because of the inability of the public to make an informed choice in selecting a competent practitioner?
6. Does a potential for fraud exist because of the inability for third party payors to determine competency?

7. Is the **public** seeking regulation or greater accountability of this group?

C*riterion Two: Specialized Skills and Training. The practice of the health occupation requires specialized education and training, and the public needs to have benefits by assurance of initial and continuing occupational competence.*

1. What are the educational or training requirements for entry into this occupation? Are these programs accredited? By whom?
    - Are sample curricula available?
    - Are there training programs in Virginia?
2. If no programs exist in Virginia, what information is available on programs elsewhere which prepare practitioners for practice in the Commonwealth? What are the minimum competencies (knowledge, skills, and abilities) required for entry into the profession? How were they derived?
3. Are there national, regional, and/or state examinations available to assess entry-level competency?
    - Who develops and administers the examination?
    - What content domains are tested?
    - Are the examinations psychometrically sound -- in keeping with *The Standards for Educational and Psychological Testing*?
4 Are there requirements and mechanisms for ensuring continuing competence? For example, are there mandatory education requirements, re-examination, peer review, practice audits, institutional review, practice simulations, or self-assessment models?
5. Why does the public require state assurance of initial and continuing competence? What assurances do the public have already through private credentialing or certification or institutional standards, etc.?
6. Are there currently recognized or emerging specialties (or levels or classifications) within the occupational grouping? If so,
    - What are these specialties? How are they recognized? (by whom and through what mechanisms – e.g., specialty certification by a national academy, society or other organization)?
    - What are the various levels of specialties in terms of the functions or services performed by each?
    - How can the public differentiate among these levels or specialties for classification of practitioners?
    - Is a "generic" regulatory program appropriate, or should classifications (specialties/levels) be regulated separately (e.g., basic licensure with specialty certification)?

Criterion Three: The functions and responsibilities of the practitioner require independent judgment and the members of the occupational group practice autonomously.

1. What is the nature of the judgments and decisions which the practitioner must make in practice?
    - Is the practitioner responsible for making diagnoses?
    - Does the practitioner design or approve treatment plans?
    - Does the practitioner direct or supervise patient care?
    - Does the practitioner use dangerous equipment or substance in performing his functions?

    If the practitioner is not responsible for diagnosis, treatment design or approval, or directing patient care, who is responsible for these functions?
2. Which functions typically performed by this practitioner group are **unsupervised**, i.e., neither directly monitored or routinely checked?
    - What proportion of the practitioner's time is spent in unsupervised activity?
    - Who is legally accountable/liable for acts performed with no supervision?
3. Which functions are performed **only under supervision**?
    - Is the supervision *direct* (i.e., the supervisor is on the premises and responsible) or *general* (i.e., supervisor is responsible but not necessarily on the premises)?
    - Who provides the supervision? How frequently? Where? For what purpose?
    - Who is legally accountable/liable for acts performed under supervision?
    - Is the supervisor a member of a regulated profession (please elaborate)?

- What is contained in a typical supervisory or collaborative arrangement protocol?

3. Does the practitioner of this occupation supervise others? Describe the nature of this supervision (as in #3 above).
4. What is a typical work setting like, including supervisory arrangements and interaction of the practitioner with other regulated/unregulated occupations and professions?
5. Does this occupational group treat or serve a specific consumer/client/patient population?
6. Are clients/consumers/patients **referred to** this occupational group for care or services? If so, by whom? Describe a typical referral mechanism.
7. Are clients/consumers/patients **referred from** this occupational group for care or services? If so, to what practitioners are such referrals made? Describe a typical referral mechanism. How and on what basis are decisions to refer made?

Criterion Four: The scope of practice is distinguishable from other licensed, certified and registered occupations, in spite of possible overlapping of professional duties, methods of examination, instrumentation, or therapeutic modalities.

1. Which functions of this occupation are **similar to** those performed by other health occupational groups?
    - Which group(s)?
    - Are the other groups regulated by the state?
    - If so, why might the applicant group be considered different?
2. Which functions of this occupation are **distinct from** other similar health occupational groups?
    - Which group(s)?
    - Are the other groups regulated by the state?
3. How will the regulation of this occupational group affect the scope of practice, marketability, and economic and social status of the other, similar groups (whether regulated or unregulated)?

Criterion Five: The economic costs to the public of regulating the occupational group are justified. These costs result from restriction of the supply of practitioner, and the cost of operation of regulatory boards and agencies.

1. What are the range and average incomes of members of this occupational group in the Commonwealth? In adjoining states? Nationally?
2. What are the typical current fees for services provided by this group in the Commonwealth? In adjoining states? Nationally?
3. Is there any evidence that cost for services provided by this occupational group will increase if the group becomes state regulated? In other states, have there been any effects on fees/salaries attributable to state regulation?
4. Would state regulation of this occupation restrict other groups from providing care given by this group?
    - Are any of the other groups able to provide similar care at lower costs?
    - How is it that this lower cost is possible?
5. Are there current shortages/oversupplies of practitioners in Virginia? In the region? Nationally?
6. Are third-party payers in Virginia currently reimbursing services of the occupational group? By whom? For what?
    - If not in Virginia, elsewhere in the country?
    - Are similar services provided by another occupational group reimbursed by third-party payers in Virginia? Elsewhere? Elaborate.
7. If third-party payment does not currently exist, will the occupation seek it subsequent to state regulation?

Criterion Six: There are no alternatives to State regulation of the occupation which adequately protect the public. [Inspections and injunctions, disclosure requirements, and the strengthening of consumer protection laws and regulations are examples of methods of addressing the risk for public harm that do not require regulation of the occupation or profession.]

1. What laws or regulations currently exist to govern:
    - Facilities in which practitioners practice or are employed?
    - Devices and substances used in the practice?
    - Standards or practice?

2. Does the institution or organization where the practitioners practice set and enforce standards of care? How?
3. Does the occupational group participate in a nongovernmental credentialing program, either thorough a national certifying agency or professional association (e.g., National Organization for Competency Assurance)?
    - How are the standards set and enforced in the program?
    - What is the extent of participation of practitioners in the program?
4. Does a Code of Ethics exist for this profession?
    - What is it?
    - Who established the Code?
    - How is it enforced?
    - Is adherence mandatory?

5. Does any peer group evaluation mechanism exist in Virginia or elsewhere? Elaborate.
6. How is a practitioner disciplined and for what causes? Violation of standards of care? Unprofessional conduct? Other causes?
7. Are there specific legal offenses which, upon conviction, preclude a practitioner from practice?
8. Does any other means exist within the occupational group to protect the consumer from negligence or incompetence (e.g., malpractice insurance, review boards that handle complaints)? How are challenges to a practitioner's competency handled?
9. What is the most appropriate level of regulation?

Analysis of the Practice of Social Work, 2010

The most recent analysis of the practice of social work by the Association of Social Work Boards (ASWB) was done from 2008 to 2009, and the results are reflected in all categories of the social work licensing examinations beginning January 3, 2011.

The Process

Such a study, done periodically, is for the purpose of finding out what social workers do in their jobs, how frequently they do it, the importance of each task, and whether it is necessary to be able to do the task at the time of licensure and a first, entry-level job. The information is used to determine the minimum knowledge and skills necessary to perform social work safely at various educational and experience levels.

The responses shape the blueprints for the exams, the content areas in which questions are asked, and the number of questions in the content areas. The four blueprints, a separate one each for the Bachelors, Masters, Advanced Generalist and Clinical exams, become the basis for the licensing tests until another practice analysis is done.

A practice analysis is a combination of the judgment of subject matter experts added to the hard science of numbers, survey data gathered from practicing social workers and compiled and analyzed by measurement scientists.

The group of 21 subject matter experts (SMEs) who guided the most recent practice analysis as members of the Practice Analysis Task Force was carefully balanced for diversity in gender, race and ethnicity, practice setting, and geographic location.

The SMEs began by reworking the list of social work tasks from the previous practice analysis—adding some, removing others, rewording still others, and reorganizing the list. Changes were made in the demographics questions. Before the final form was sent out to social workers, there was a pilot study done and some changes made as a result.

When the survey was finally ready for circulation, it was sent out to over 16,000 social workers in the United States and Canada. Surveys were initiated through letters sent by mail and followed by email, if possible. The letters included directions to access surveys and complete and return them online.

ASWB is the organization of social work licensing boards in 49 states, all ten Canadian provinces, Washington, DC, and the Virgin Islands. It serves as an information forum and develops and maintains the licensing examinations for social workers.

For the U.S. part of the survey, a proportional random sample of 12,009 social workers in the United States who had passed one of the licensing exams between 2006-2009 (2004-2008 for Advanced Generalist) was drawn. For the Canadian portion, a sample of 4,031 social workers in Canada was taken, from data provided by the provinces.

A multiple-contact system was used, with a mix of mail and email reminders, depending on jurisdiction, to encourage social workers to take the time to fill in the survey.

The Task Force reviewed the data and linked each task to a competency that would be included in the exam content outlines, establishing a link between each task and the knowledge necessary to perform that task. The competency

Current Level of Practice	Percentage
Bachelors (direct or macro practice)	25.92
Masters (direct or macro practice)	28.91
Advanced Practice (2 or more years post-MSW macro practice experience)	9.32
Clinical Practice (2 or more years post-MSW clinical experience)	35.86
Highest Social Work Degree Earned	
Bachelors in Social Work	23.27
Masters in Social Work	72.69
Doctorate in Social Work	0.59
No social work degree	1.50
Other social work degree	1.95
Years in Social Work Practice	
I have not practiced social work	0.22
Less than 2 years	10.26
2-5 years	30.65
6-10 years	24.89
11-15 years	13.53
16-20 years	6.93
20 years or more	13.51
Primary Practice Setting	
For profit organization	10.61
Private clinical practice	5.38
Not-for-profit	36.52
Public (local, county, state, province, federal, or military)	41.83
Other (Please specify)	5.66

Some of the respondent demographics

statements are the building blocks of the exams, and their importance is weighted according to the survey data. Then questions can be written to determine whether a test-taker has a grasp of the Knowledge, Skills, and Abilities (KSAs) that describe the content for each competency.

Following the practice analysis, a Passing Score Panel of social workers (including some members of the Task Force) went through a long exercise to review anchor exams for each category. They discussed minimal competence in the content that is measured by the exams, actually took the exams, and rated each test question as to the probability that a minimally competent social worker would answer the question correctly.

Judgments were discussed and averaged, and averages were used to compute the cut score, the point on which pass-fail determinations are made, on the anchor exam.

Once the anchor, or base, exams were in place, additional exam forms were assembled and calibrated to reflect the same overall difficulty level. Statistics are gathered every time a question appears on an exam form, and each question has a difficulty level determined for it. Through equating—knowing exactly how difficult a test is, given the compilation of questions on it—each form has a raw passing score set. If there are many difficult questions, the raw score, or number of questions out of 150 that the test-taker must answer correctly, is lower; if the questions tend to be less difficult, the raw score is higher.

PERFORMANCE

For your level of practice, when is it required to independently perform this task?

- **P1**= Within the first 2 years
- **P2**= After the first 2 years
- **P3**= Never/Not Applicable

IMPORTANCE

How important is the competent performance of this task to effective social work practice, regardless of how often you perform it?

- **I1**= Not very important
- **I2**= Of low importance
- **I3**= Of moderate importance
- **I4**= Very important
- **I5**= Extremely Important

FREQUENCY

How often do you perform this task?

- **F1**= Seldom
- **F2**= Monthly
- **F3**= Weekly
- **F4**= Daily

Assessment	P1	P2	P3	I1	I2	I3	I4	I5	F1	F2	F3	F4
1- Determine clients' eligibility for services.	○	○	○	○	○	○	○	○	○	○	○	○
2- Engage clients' participation in the intake/assessment process.	○	○	○	○	○	○	○	○	○	○	○	○
3- Assess clients (e.g., couples, individuals, families, groups) to determine strengths and challenges.	○	○	○	○	○	○	○	○	○	○	○	○
4- Interview clients to gather information from the clients' perspective regarding the nature and degree of problem.	○	○	○	○	○	○	○	○	○	○	○	○
5- Assess the nature and severity of clients' crisis situations.	○	○	○	○	○	○	○	○	○	○	○	○
6- Assess clients' risk of danger to self and others.	○	○	○	○	○	○	○	○	○	○	○	○
7- Assess suspected abuse and/or neglect.	○	○	○	○	○	○	○	○	○	○	○	○
8- Perform a mental status examination.	○	○	○	○	○	○	○	○	○	○	○	○
9- Conduct cognitive functioning/capacity assessments.	○	○	○	○	○	○	○	○	○	○	○	○
10- Provide information to clients about policies and services of the agency/practice.	○	○	○	○	○	○	○	○	○	○	○	○
11- Provide information to clients regarding their rights and responsibilities, including limits to confidential-	○	○	○	○	○	○	○	○	○	○	○	○

The survey, in English

New Content Outlines

The results of all this were four content outlines, one for each examination. Each is made up of four or five main headings, and a varying number of subheadings (competencies). Each of the KSAs, more than 800 for all categories of the exam, is assigned under one of the competencies.

Once the data was reviewed, the Task Force found that the results of the survey in the U.S. and Canada were remarkably similar, showing that practice doesn't change much across the border. For the second time, North American blueprints have been developed.

A list of the content areas and percentages of questions on each form of the examination that will ask about each is listed here. A complete listing of the content outlines with competencies and KSAs is available on the association's Website, www.aswb.org.

An extensive report on the practice analysis, *Analysis of the Practice of Social Work, 2010*, is available from the association as a printed book and as an electronic document at www.aswb.org.

Bachelors Exam Content

I. Human Development, Diversity, and Behavior in the Environment, 27%
II. Assessment, 28%
III. Direct and Indirect Practice, 26%
IV. Professional Relationships, Values, and Ethics, 19%

Masters Exam Content Outline

I. Human Development, Diversity, and Behavior in the Environment, 28%
II. Assessment and Intervention Planning, 24%
III. Direct and Indirect Practice, 21%
IV. Professional Relationships, Values and Ethics, 27%

Advanced Generalist Exam Content Outline

I. Human Development, Diversity, and Behavior in the Environment, 18%
II. Micro Assessment and Planning, 22%
III. Micro Practice and Social Work Relationships, 18%
IV. Macro Practice, 18%
V. Professional Values and Ethics, 24%

Clinical Exam Content Outline

I. Human Development, Diversity and Behavior in the Environment, 31%
II. Assessment, Diagnosis and Treatment Planning, 26%
III. Psychotherapy, Clinical Interventions and Case Management, 25%
IV. Professional Ethics and Values, 18%

Exams reflecting the new content outlines will be administered beginning January 3, 2011.

Major changes to structure, not content

Changes made as a result of the 2008-09 analysis were extensive, but the modifications are more in the organization of the content outlines than in the actual content to be measured.

The relatively minor shifts in content emphases that did occur from this analysis included an expansion in knowledge related to human development, diversity, and behavior in the Bachelors and Masters examinations. Content related to supervision, social work administration, and research was reduced in Bachelors, while Masters saw some reduced emphasis on service delivery, practice evaluation, and utilization of research.

View the complete report at www.aswb.org

Content related to values and ethics has received increased emphasis in the Masters, Advanced Generalist, and Clinical exams. The reduction in micro practice content on the Advanced Generalist exam, together with definition of a new stand-alone content area titled "Macro Practice", now reinforces the distinctiveness of this exam. Content in the Clinical exam related to management and clinical supervision went down as a reflection of the realities of the social work profession on entry to this level of practice.

The Practice Analysis impacts all ASWB examination categories:

Associate–A few jurisdictions administer the Bachelors Examination to candidates who do not have degrees in social work for an Associate license. A lower passing score is used.

Bachelors–The examination intended for use by individuals with a baccalaureate degree in social work.

Masters–The examination that is intended for individuals who hold an MSW degree, but who do not have post-degree supervision.

Advanced Generalist–The Advanced Generalist exam is designed for advanced practitioners who do more macro-level, generalist, administrative or management work. It is one of two exams intended to be taken by social workers with an MSW or higher degree, plus the required postgraduate supervised experience.

Clinical–The Clinical exam has more emphasis on the provision of direct, micro-level mental health services. It is the second of two exams (along with the Advanced Generalist) intended to be taken by social workers with an MSW or higher degree, plus the required postgraduate supervised experience.

The Advanced Generalist and clinical examinations are considered on par due to the advanced level of practice knowledge and experience expected of someone taking either exam. But they each emphasize different areas of practice as noted in their descriptions.

Why analyze social work practice?

Practice must be looked at periodically because it changes not only the importance of a given competency, but the level of knowledge that is necessary to practice safely at any level. If a social worker needs to know how to recognize an abusive family member when taking an entry-level job, following licensure on the basis of the Bachelors Examination, then that should be (and is) reflected in the content outline of the exam.

The first analysis of social work practice was done by the association in 1981 and a revalidation study was done seven years later. Subsequent analyses were completed in 1996 and 2003 as well.

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Commonwealth of Virginia

REGULATIONS

GOVERNING THE PRACTICE OF SOCIAL WORK

VIRGINIA BOARD OF SOCIAL WORK

Title of Regulations: 18 VAC 140-20-10 et seq.

Statutory Authority: §§ 54.1-2400 and Chapter 37 of Title 54.1 of the *Code of Virginia*

Revised Date:

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Part I. General Provisions.

18VAC140-20-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-3700 of the Code of Virginia:

Board

Casework

Casework management and supportive services

Clinical social worker

Practice of social work

Social worker

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Accredited school of social work" means a school of social work accredited by the Council on Social Work Education.

"Active practice" means post-licensure practice at the level of licensure for which an applicant is seeking licensure in Virginia and shall include at least 360 hours of practice in a 12-month period.

"Ancillary services" means activities such as case management, recordkeeping, referral, and coordination of services.

"Clinical course of study" means graduate course work that includes specialized advanced courses in human behavior and the social environment, social justice and policy, psychopathology, and diversity issues; research; clinical practice with individuals, families, and groups; and a clinical practicum that focuses on diagnostic, prevention, and treatment services.

"Clinical social work services" include the application of social work principles and methods in performing assessments and diagnoses based on a recognized manual of mental and emotional disorders or recognized system of problem definition, preventive and early intervention services and treatment services, including but not limited to psychotherapy and counseling for mental disorders, substance abuse, marriage and family dysfunction, and problems caused by social and psychological stress or health impairment.

"Exempt practice" is that which meets the conditions of exemption from the requirements of licensure as defined in § 54.1-3701 of the Code of Virginia.

"Face-to-face supervision" means the physical presence of the individuals involved in the supervisory relationship during either individual or group supervision or the use of technology that provides real-time, visual contact among the individuals involved.

"Nonexempt practice" is that which does not meet the conditions of exemption from the requirements of licensure as defined in § 54.1-3701 of the Code of Virginia.

"Supervisee" means an individual who has submitted a supervisory contract and has received board approval to provide clinical services in social work under supervision.

"Supervision" means a professional relationship between a supervisor and supervisee in which the supervisor directs, monitors and evaluates the supervisee's social work practice while promoting development of the supervisee's knowledge, skills and abilities to provide social work services in an ethical and competent manner.

18VAC140-20-20. [Repealed]

18VAC140-20-30. Fees.

A. The board has established fees for the following:

1. Registration of supervision	$25
2. Application processing	$100
3. Biennial license renewal	
a. Registered social worker	$35
b. Associate social worker	$35
c. Licensed social worker	$110
d. Licensed clinical social worker	$125
4. Penalty for late renewal	$10
5. Verification of license to another jurisdiction	$10
6. Additional or replacement licenses	$10
7. Additional or replacement wall certificates	$15
8. Returned check	$35
9. Reinstatement following disciplinary action	$200

B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the board. All fees are nonrefundable.

C. Examination fees shall be paid directly to the examination service according to its requirements.

18VAC140-20-35. Sex offender treatment provider certification.

Anyone licensed by the board who is seeking certification as a sex offender treatment provider shall obtain certification under the Board of Psychology and adhere to the board's Regulations Governing the Certification of Sex Offender Treatment Providers, 18VAC125-30-10 et seq.

18VAC140-20-37. Licensure; general.

~~Licensed social workers may practice in exempt practice settings under appropriate supervision.~~

Only licensed clinical social workers may practice at the autonomous level.

Part II. Requirements for Licensure.

18VAC140-20-40. Requirements for licensure by examination as a clinical social worker.

Every applicant for examination for licensure as a clinical social worker shall:

1. Meet the education requirements prescribed in 18VAC140-20-49 and experience requirements prescribed in 18VAC140-20-50.

2. Submit a completed application to the board office within two years of completion of supervised experience to include:

a. Documentation, on the appropriate forms, of the successful completion of the supervised experience requirements of 18VAC140-20-50 along with documentation of the supervisor's out-of-state license where applicable. Applicants whose former supervisor is deceased, or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation or partnership in which the applicant was supervised. The affidavit shall specify dates of employment, job responsibilities, supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision;

b. The application fee prescribed in 18VAC140-20-30;

c. Official transcript or transcripts submitted from the appropriate institutions of higher education; ~~and~~

d. Documentation of applicant's ~~out-of-state~~ health or mental health licensure or certification where applicable; and

e. A current report from the U. S. Department of Health and Human Services Data Bank (NPDB).

3. An applicant for licensure by examination shall provide evidence of passage of the examination prescribed in 18VAC140-20-70. ~~If the examination was not passed within five years preceding application for licensure, the applicant may qualify by documentation of providing clinical social work services in an exempt setting for at least 360 hours per year for two of the past five years.~~

18VAC140-20-45. Requirements for licensure by endorsement.

A. Every applicant for licensure by endorsement shall submit in one package:

1. A completed application and the application fee prescribed in 18VAC140-20-30.

2. Documentation of active social work licensure ~~in good standing~~ obtained by standards required for licensure in another jurisdiction as verified by the out-of-state licensing agency ~~on a board-~~

~~approved form~~. Licensure in the other jurisdiction shall be of a comparable type as the licensure that the applicant is seeking in Virginia.

3. Verification of a passing score on a board-approved national exam at the level for which the applicant is seeking licensure in Virginia.

4. Documentation of any other health or mental health licensure or certification if applicable.

5. A current report from the U. S. Department of Health and Human Services Data Bank (NPDB).

~~4.~~6. Verification of:

a. ~~Active~~ Active practice in another U. S. jurisdiction at the level for which the applicant is seeking licensure for 24 out of the past 60 months; or

b. ~~Practice~~ Practice in an exempt setting at the level for which the applicant is seeking licensure for ~~36~~ 24 out of the past 60 months; or

c. ~~Evidence~~ Evidence of supervised experience requirements substantially equivalent to those outlined in 18VAC140-20-50 A 2 and 3 and 18VAC140-20-60 C 2 and 3.

~~5.~~7. Certification that the applicant is not the respondent in any pending or unresolved board action in another jurisdiction or in a malpractice claim.

B. If an applicant for licensure by endorsement has not passed a board-approved national examination at the level for which the applicant is seeking licensure in Virginia, the board may approve the applicant to sit for such examination.

18VAC140-20-49. Educational requirements for a licensed clinical social worker.

A. The applicant for licensure as a clinical social worker shall document successful completion of one of the following: (i) a master's degree in social work with a clinical course of study from a program accredited by the Council on Social Work Education, (ii) a master's degree in social work with a nonclinical concentration from a program accredited by the Council on Social Work Education together with successful completion of the educational requirements for a clinical course of study through a graduate program accredited by the Council on Social Work Education, or (iii) a program of education and training in social work at an educational institution outside the United States recognized by the Council on Social Work Education.

B. The requirement for a clinical practicum in a clinical course of study shall be a minimum of 600 hours, which shall be integrated with clinical course of study coursework and supervised by a person who is a licensed clinical social worker or who holds a master's or doctor's degree in social work and has a minimum of three years of experience in clinical social work services after earning the graduate degree. An applicant who has otherwise met the requirements for a clinical course of study but who did not have a minimum of 600 hours in a supervised field placement/practicum in clinical social work services may meet the requirement by obtaining an equivalent number of hours of supervised practice in clinical social work services in addition to the experience required in 18VAC140-20-50.

18VAC140-20-50. Experience requirements for a licensed clinical social worker.

A. Supervised experience. Supervised post-master's degree experience ~~in all settings obtained in Virginia~~ without prior written board approval will not be accepted toward licensure, except supervision obtained in another U.S. jurisdiction may be accepted if it met the requirements of that jurisdiction.

1. Registration. An individual who proposes to obtain supervised post-master's degree experience in Virginia shall, prior to the onset of such supervision, or whenever there is an addition or change of supervised practice, supervisor, clinical social work services or location:

a. Register on a form provided by the board and completed by the supervisor and the supervised individual; and

b. Pay the registration of supervision fee set forth in 18VAC140-20-30.

2. Hours. The applicant shall have completed a minimum of 3,000 hours of supervised post-master's degree experience in the delivery of clinical social work services and in ancillary services that support such delivery. A minimum of one hour and a maximum of four hours of face-to-face supervision shall be provided per 40 hours of work experience for a total of at least 100 hours. No more than 50 of the 100 hours may be obtained in group supervision, nor shall there be more than six persons being supervised in a group unless approved in advance by the board. The board may consider alternatives to face-to-face supervision if the applicant can demonstrate an undue burden due to hardship, disability or geography.

a. ~~Experience~~ Supervised experience shall be acquired in no less than two nor more than four consecutive years.

b. Supervisees shall ~~average no less than 15 hours per 40 hours of work experience in face-to-face client contact for~~ obtain throughout their hours of supervision a minimum of 1,380 hours of supervised experience in face-to-face client contact in the delivery of clinical social work services. The remaining hours may be spent in ancillary services supporting the delivery of clinical social work services.

3. An individual who does not complete the supervision requirement after four consecutive years of supervised experience ~~shall submit~~ may request an extension of no more than another 12 months by submission of evidence to the board ~~showing why the training should be allowed to continue~~ demonstrating the extenuating circumstances that prevented completion within the four-year time frame.

B. Requirements for supervisors.

1. The supervisor shall hold an active, unrestricted license as a licensed clinical social worker in the jurisdiction in which the clinical services are being rendered with at least ~~three~~ two years of postlicensure clinical social work experience. The board may consider supervisors with commensurate qualifications if the applicant can demonstrate an undue burden due to geography or disability or if supervision was obtained in another U. S. jurisdiction.

2. The supervisor shall have received professional training in supervision, consisting of a three credit-hour graduate course in supervision or at least 14 hours of continuing education offered by a provider approved under 18VAC140-20-105. The graduate course or hours of continuing education in supervision shall be obtained by a supervisor within five years immediately preceding registration of supervision.

3. The supervisor shall not provide supervision for a family member ~~of his immediate family~~ or provide supervision for anyone with whom ~~he has~~ the supervisor has the potential for a dual relationship.

4. The board may consider supervisors from jurisdictions outside of Virginia who provided clinical social work supervision if they have commensurate qualifications but were either (i) not licensed because their jurisdiction did not require licensure or (ii) were not designated as clinical social workers because the jurisdiction did not require such designation.

C. Responsibilities of supervisors:

The supervisor shall:

1. Be responsible for the social work activities of the supervisee as set forth in this subsection once the supervisory arrangement is accepted;

2. Review and approve the diagnostic assessment and treatment plan of a representative sample of the clients assigned to the applicant during the course of supervision. The sample should be representative of the variables of gender, age, diagnosis, length of treatment and treatment method within the client population seen by the applicant. It is the applicant's responsibility to assure the representativeness of the sample that is presented to the supervisor;

3. Provide supervision only for those social work activities for which the supervisor has determined the applicant is competent to provide to clients;

4. Provide supervision only for those activities for which the supervisor is qualified by education, training and experience;

5. Evaluate the supervisee's knowledge and document minimal competencies in the areas of an identified theory base, application of a differential diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of imminent danger, understanding the requirements of law for reporting any harm or risk of harm to self or others, and implementing a professional and ethical relationship with clients;

6. Be available to the applicant on a regularly scheduled basis for supervision; ~~and~~

7. Maintain documentation, for five years postsupervision, of which clients were the subject of supervision; and

8. Ensure that the board is notified of a change in supervision or if supervision has terminated.

D. Responsibilities of supervisees.

1. Supervisees may not directly bill for services rendered or in any way represent themselves as independent, autonomous practitioners, or licensed clinical social workers.

2. During the supervised experience, supervisees shall use their names and the initials of their degree, and the title "Supervisee in Social Work" in all written communications.

3. Clients shall be informed in writing of the supervisee's status and the supervisor's name, professional address, and phone number.

4. Supervisees shall not supervise the provision of clinical social work services provided by another person.

18VAC140-20-51. Requirements for licensure by examination as a licensed social worker.

A. In order to be approved to sit for the board-approved examination for a licensed social worker, an applicant shall:

1. Meet the education requirements prescribed in 18VAC140-20-60 A.

2. Submit a completed application to the board office to include:

   a. The application fee prescribed in 18VAC140-20-30; ~~and~~

   b. Official transcript or transcripts submitted from the appropriate institutions of higher education;

   c. Documentation of applicant's health or mental health licensure or certification where applicable; and

   d. A current report from the U. S. Department of Health and Human Services Data Bank (NPDB).

B. In order to be licensed by examination as a licensed social worker, an applicant shall:

1. Meet the education and experience requirements prescribed in 18VAC140-20-60; and

2. Submit, in addition to the application requirements of subsection A of this section, the following:

   a. Documentation, on the appropriate forms, of the successful completion of the supervised experience requirements of 18VAC140-20-60 along with documentation of the supervisor's out-of-state license where applicable. An applicant whose former supervisor is deceased, or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation or partnership in which the applicant was supervised. The affidavit shall specify dates of employment, job responsibilities, supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision;

b. Verification of a passing score on the board-approved national examination; and

c. Documentation of applicant's ~~out-of-state~~ health or mental health licensure or certification where applicable.

3. Provide evidence of passage of the examination prescribed in 18VAC140-20-70. ~~If the examination was not passed within five years preceding application for licensure, the applicant may qualify by documentation of providing social work services in an exempt setting for at least 360 hours per year for two of the past five years.~~

18VAC140-20-60. Education and experience requirements for licensed social worker.

A. Education. The applicant shall hold a bachelor's or a master's degree from an accredited school of social work. Graduates of foreign institutions must establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council on Social Work Education.

B. Master's degree applicant. An applicant who holds a master's degree may apply for licensure as a licensed social worker without documentation of supervised experience.

C. ~~Bachelor's degree applicant~~ Supervised experience requirement. Supervised experience ~~in all settings obtained in Virginia~~ without prior written board approval will not be accepted toward licensure, except supervision obtained in another U. S. jurisdiction may be accepted if it met the requirements of that jurisdiction.

1. Registration. An individual who proposes to obtain supervised experience in Virginia shall, prior to the onset of such supervision, or whenever there is an addition or change in the location of supervised practice, supervisor or services:

a. Register on a form provided by the board and completed by the supervisor and the supervised individual; and

b. Pay the registration of supervision fee set forth in 18VAC140-20-30.

~~1.~~2. Hours. Bachelor's degree applicants shall have completed a minimum of 3,000 hours of supervised post-bachelor's degree experience in casework management and supportive services under supervision satisfactory to the board. A minimum of one hour and a maximum of four hours of face-to-face supervision shall be provided per 40 hours of work experience for a total of at least 100 hours.

~~2.~~3. ~~Experience~~ Supervised experience shall be acquired in no less than two nor more than four consecutive years from the beginning of the supervised experience. An individual who does not complete the supervision requirement after four consecutive years of supervised experience may request an extension of up to 12 months by submission of evidence to the board demonstrating the extenuating circumstances that prevented completion within the four-year time frame.

D. Requirements for supervisors.

1. The supervisor providing supervision shall hold an active, unrestricted license as a licensed social worker with a master's degree, or a licensed social worker with a bachelor's degree and at least three years of postlicensure social work experience or a licensed clinical social worker in the jurisdiction in which the social work services are being rendered. If this requirement places an undue burden on the applicant due to geography or disability, the board may consider individuals with comparable qualifications.

2. The supervisor shall:

a. Be responsible for the social work practice of the prospective applicant once the supervisory arrangement is accepted by the board;

b. Review and approve the assessment and service plan of a representative sample of cases assigned to the applicant during the course of supervision. The sample should be representative of the variables of gender, age, assessment, length of service and casework method within the client population seen by the applicant. It is the applicant's responsibility to assure the representativeness of the sample that is presented to the supervisor. The supervisor shall be available to the applicant on a regularly scheduled basis for supervision. The supervisor will maintain documentation, for five years post supervision, of which clients were the subject of supervision;

c. Provide supervision only for those casework management and support services activities for which the supervisor has determined the applicant is competent to provide to clients;

d. Provide supervision only for those activities for which the supervisor is qualified; ~~and~~

e. Evaluate the supervisee in the areas of professional ethics and professional competency; and

f. Ensure that the board is notified of a change in supervision or if supervision has terminated.

3. ~~Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved~~ The supervisor shall not provide supervision for a family member or provide supervision for anyone with whom the supervisor has the potential for a dual relationship.

Part III. Examinations.

18VAC140-20-70. Examination requirement.

A. An applicant for licensure by the board as a social worker or clinical social worker shall pass a written examination prescribed by the board.

1. The examination prescribed for licensure as a clinical social worker shall be the licensing examination of the Association of Social Work Boards at the clinical level.

2. The examination prescribed for licensure as a social worker shall minimally be the licensing examination of the Association of Social Work Boards at the bachelor's level.

B. A candidate approved by the board to sit for an examination shall take that examination within two years of the date of the initial board approval. If the candidate has not passed the examination

by the end of the two-year period here prescribed, the applicant shall reapply according to the requirements of the regulations in effect at that time. After an applicant who has failed the examination has re-applied twice, he shall be required to complete one year as a supervisee before approval to re-take the examination is granted.

18VAC140-20-80 to 18VAC140-20-90. [Repealed]

Part IV. Licensure Renewal; Reinstatement.

18VAC140-20-100. Licensure renewal.

A. All licensees shall renew their licenses on or before June 30 of each odd-numbered year and pay the renewal fee prescribed by the board.

B. Licensees who wish to maintain an active license shall pay the appropriate fee and document on the renewal form compliance with the continued competency requirements prescribed in 18VAC140-20-105. Newly licensed individuals are not required to document continuing education on the first renewal date following initial licensure.

C. A licensee who wishes to place his license in inactive status may do so upon payment of a fee equal to one-half of the biennial license renewal fee as indicated on the renewal form. No person shall practice social work or clinical social work in Virginia unless he holds a current active license. A licensee who has placed himself in inactive status may become active by fulfilling the reactivation requirements set forth in 18VAC140-20-110.

D. Each licensee shall furnish the board his current address of record. All notices required by law or by this chapter to be mailed by the board to any such licensee shall be validly given when mailed to the latest address of record given by the licensee. Any change in the address of record or the public address, if different from the address of record, shall be furnished to the board within 30 days of such change.

18VAC140-20-105. Continued competency requirements for renewal of an active license.

A. Licensed clinical social workers shall be required to have completed a minimum of 30 contact hours of continuing education and licensed social workers shall be required to have completed a minimum of 15 contact hours of continuing education for each biennial licensure renewal. Courses or activities shall be directly related to the practice of social work or another behavioral health field. A minimum of two of those hours must pertain to ethics or the standards of practice for the behavioral health professions or to laws governing the practice of social work in Virginia.

1. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

2. The board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee such as temporary disability, mandatory military

service, or officially declared disasters upon written request from the licensee prior to the renewal date.

B. Hours may be obtained from a combination of board-approved activities in the following two categories:

1. Category I. Formally Organized Learning Activities. A minimum of 20 hours for licensed clinical social workers or 10 hours for licensed social workers shall be documented in this category, which shall include one or more of the following:

a. Regionally accredited university or college academic courses in a behavioral health discipline. A maximum of 15 hours will be accepted for each academic course.

b. Continuing education programs offered by universities or colleges accredited by the Council on Social Work Education.

c. Workshops, seminars, conferences, or courses in the behavioral health field offered by federal, state or local social service agencies, public school systems or licensed health facilities and licensed hospitals.

d. Workshops, seminars, conferences or courses in the behavioral health field offered by an individual or organization that has been certified or approved by one of the following:

(1) The Child Welfare League of America an d its state and local affiliates.

(2) The National Association of Social Workers and its state and local affiliates.

(3) The Association of Black Social Workers and its state and local affiliates.

(4) The Family Service Association of America and its state and local affiliates.

(5) The Clinical Social Work Association and its state and local affiliates.

(6) The Association of Social Work Boards.

(7) Any state social work board.

2. Category II. Individual Professional Activities. A maximum of 10 of the required 30 hours for licensed clinical social workers or a maximum of five of the required 15 hours for licensed social workers may be earned in this category, which shall include one or more of the following:

a. Participation in an Association of Social Work Boards item writing workshop. (Activity will count for a maximum of two hours.)

b. Publication of a professional social work-related book or initial preparation/presentation of a social work-related course. (Activity will count for a maximum of 10 hours.)

c. Publication of a professional social work-related article or chapter of a book, or initial preparation/presentation of a social work-related in-service training, seminar or workshop. (Activity will count for a maximum of five hours.)

d. Provision of a continuing education program sponsored or approved by an organization listed under Category I. (Activity will count for a maximum of two hours and will only be accepted one time for any specific program.)

e. Field instruction of graduate students in a Council on Social Work Education-accredited school. (Activity will count for a maximum of two hours.)

f. Serving as an officer or committee member of one of the national professional social work associations listed under subdivision B 1 d of this section or as a member of a state social work licensing board. (Activity will count for a maximum of two hours.)

g. Attendance at formal staffings at federal, state or local social service agencies, public school systems or licensed health facilities and licensed hospitals. (Activity will count for a maximum of five hours.)

h. Individual or group study including listening to audio tapes, viewing video tapes, reading, professional books or articles. (Activity will count for a maximum of five hours.)

18VAC140-20-106. Documenting compliance with continuing education requirements.

A. All licensees in active status are required to maintain original documentation for a period of five years following renewal.

B. After the end of each renewal period, the board shall conduct a random audit of licensees to verify compliance with the requirement for that renewal period.

C. Upon request, a licensee shall provide documentation as follows:

1. Documentation of Category I activities by submission of:

a. Official transcripts showing credit hours earned; or

b. Certificates of participation.

2. Attestation of completion of Category II activities.

D. Continuing education hours required by disciplinary order shall not be used to satisfy renewal requirements.

18VAC140-20-110. Late renewal; reinstatement; reactivation.

A. A social worker or clinical social worker whose license has expired may renew that license within four years after its expiration date by:

1. Providing evidence of having met all applicable continuing education requirements.

2. Paying the penalty for late renewal and the biennial license fee for each biennium as prescribed in 18VAC140-20-30. (Changed in fee regulations)

B. A social worker or clinical social worker who fails to renew the license for ~~four~~ two years or more and who wishes to resume practice shall apply for reinstatement, pay the reinstatement fee and provide documentation of having completed all applicable continued competency hours equal to the number of years the license has lapsed, not to exceed four years. An applicant for reinstatement shall also provide evidence of competency to practice by documenting:

1. Active practice in another U.S. jurisdiction for at least ~~three of the past five years~~ 24 out of the past 60 months immediately preceding application;

2. Active practice in an exempt setting for at least ~~three of the past five years~~ 24 out of the past 60 months immediately preceding application; or

3. Practice as a supervisee under supervision for at least 360 hours in the 12 months immediately preceding licensure in Virginia.

C. A social worker wishing to reactivate an inactive license shall submit the renewal fee for active licensure minus any fee already paid for inactive licensure renewal, and document completion of continued competency hours equal to the number of years the license has been inactive, not to exceed four years. An applicant for reactivation who has been inactive for four or more years shall also provide evidence of competency to practice by documenting:

1. Active practice in another U.S. jurisdiction for at least ~~three of the past five years~~ 24 out of the past 60 months immediately preceding application;

2. Active practice in an exempt setting for at least ~~three of the past five years~~ 24 out of the past 60 months immediately preceding application; or

3. Practice as a supervisee under supervision for at least 360 hours in the 12 months immediately preceding licensure in Virginia.

18VAC140-20-120. [Repealed]

18VAC140-20-130. Renewal of registration for associate social workers and registered social workers.

The registration of every associate social worker and registered social worker with the former Virginia Board of Registration of Social Workers under former §54-775.4 of the Code of Virginia shall expire on June 30 of each odd-numbered year.

1. Each registrant shall return the completed application before the expiration date, accompanied by the payment of the renewal fee prescribed by the board.

2. Failure to receive the renewal notice shall not relieve the registrant from the renewal requirement.

18VAC140-20-140. [Repealed]

Part V. Standards of Practice.

18VAC140-20-150. Professional conduct.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. Regardless of the delivery method, whether in person, by telephone or electronically, these standards shall apply to the practice of social work.

B. Persons licensed as social workers and clinical social workers shall:

1. Be able to justify all services rendered to or on behalf of clients as necessary for diagnostic or therapeutic purposes.
2. Provide for continuation of care when services must be interrupted or terminated.
3. Practice only within the competency areas for which they are qualified by education and experience.
4. Report to the board known or suspected violations of the laws and regulations governing the practice of social work.
5. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.
6. Ensure that clients are aware of fees and billing arrangements before rendering services.
7. Inform clients of potential risks and benefits of services and the limitations on confidentiality and ensure that clients have provided informed written consent to treatment.
8. Keep confidential their therapeutic relationships with clients and disclose client records to others only with written consent of the client, with the following exceptions: (i) when the client is a danger to self or others; or (ii) as required by law.
9. When advertising their services to the public, ensure that such advertising is neither fraudulent nor misleading.
10. As treatment requires and with the written consent of the client, collaborate with other health or mental health providers concurrently providing services to the client.
11. Refrain from undertaking any activity in which one's personal problems are likely to lead to inadequate or harmful services.
12. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

C. In regard to client records, persons licensed by the board shall comply with provisions of §32.1-127.1:03 of the Code of Virginia on health records privacy and shall:

1. Maintain written or electronic clinical records for each client to include identifying information and assessment that substantiates diagnosis and treatment plans. Each record shall include a diagnosis and treatment plan, progress notes for each case activity, information received from all collaborative contacts and the treatment implications of that information, and the termination process and summary.
2. Maintain client records securely, inform all employees of the requirements of confidentiality, and provide for the destruction of records that are no longer useful in a manner that ensures client confidentiality.
3. Disclose or release records to others only with clients' expressed written consent or that of their legally authorized representative or as mandated by law.
4. Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients or their legally authorized representative before (i) videotaping, (ii) audio recording, (iii) permitting third-party observation, or (iv) using identifiable client records and clinical materials in teaching, writing or public presentations.
5. Maintain client records for a minimum of six years or as otherwise required by law from the date of termination of the therapeutic relationship with the following exceptions:
   a. At minimum, records of a minor child shall be maintained for six years after attaining the age of majority or 10 years following termination, whichever comes later.
   b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time.
   c. Records that have been transferred to another mental health professional or have been given to the client or his legally authorized representative.

D. In regard to dual relationships, persons licensed by the board shall:

1. Not engage in a dual relationship with a client or a ~~former client~~ supervisee that could impair professional judgment or increase the risk of exploitation or harm to the client or supervisee. (Examples of such a relationship include, but are not limited to, familial, social, financial, business, bartering, or a close personal relationship with a client.) Social workers shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs.

2. Not have any type of romantic relationship or sexual intimacies with a client or those included in collateral therapeutic services, and not provide services to those persons with whom they have had a romantic or sexual relationship. Social workers shall not engage in romantic relationships or sexual intimacies with a former client within a minimum of five years after terminating the professional relationship. Social workers who engage in such a relationship after five years following termination shall have the responsibility to examine and document thoroughly that such a relationship did not have an exploitive nature, based on factors such as duration of therapy, amount of time since therapy, termination circumstances, client's personal history and mental status, adverse impact on the client. A client's consent to, initiation of or participation in sexual behavior or involvement with a social worker does not change the nature of the conduct nor lift the regulatory prohibition.

3. Not engage in any romantic or sexual relationship or establish a therapeutic relationship with a current supervisee or student. Social workers shall avoid any nonsexual dual relationship with a supervisee or student in which there is a risk of exploitation or potential harm to the supervisee or student, or the potential for interference with the supervisor's professional judgment.

4. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

5. Not engage in a personal relationship with a former client in which there is a risk of exploitation or potential harm or if the former client continues to relate to the social worker in his professional capacity.

E. Persons licensed by the board shall advise their clients of their right to report to the Department of Health Professions any information of which they may become aware in their professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in § 54.1-2400.1 of the Code of Virginia, may have engaged in unethical, fraudulent, or unprofessional conduct as defined by the applicable licensing statues and regulations.

18VAC140-20-160. Grounds for disciplinary action or denial of issuance of a license.

The board may refuse to admit an applicant to an examination; refuse to issue a license to an applicant; or reprimand, impose a monetary penalty, place on probation, impose such terms as it may designate, suspend for a stated period of time or indefinitely, or revoke a license for one or more of the following grounds:

1. Conviction of a felony or of a misdemeanor involving moral turpitude;

2. Procurement of license by fraud or misrepresentation;

3. Conducting one's practice in such a manner so as to make the practice a danger to the health and welfare of one's clients or to the public. In the event a question arises concerning

the continued competence of a licensee, the board will consider evidence of continuing education.

4. Being unable to practice social work with reasonable skill and safety to clients by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition;

5. Conducting one's practice in a manner contrary to the standards of ethics of social work or in violation of 18VAC140-20-150, standards of practice;

6. Performing functions outside the board-licensed area of competency;

7. Failure to comply with the continued competency requirements set forth in 18VAC140-20-105; ~~and~~

8. Violating or aiding and abetting another to violate any statute applicable to the practice of social work or any provision of this chapter; and

9. Failure to provide supervision in accordance with provisions of 18VAC140-20-50 or 18VAC140-20-60.

18VAC140-20-170. Reinstatement following disciplinary action.

Any person whose license has been suspended, revoked, or denied renewal by the board under the provisions of 18VAC140-20-160 shall, in order to be eligible for reinstatement, (i) submit a new application to the board for a license, (ii) pay the appropriate reinstatement fee, and (iii) submit any other credentials as prescribed by the board. After a hearing, the board may, at its discretion, grant the reinstatement.

18VAC140-20-171. Criteria for delegation of informal fact-finding proceedings to an agency subordinate.

A. Decision to delegate. In accordance with § 54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate upon determination that probable cause exists that a practitioner may be subject to a disciplinary action.

B. Criteria for delegation. Cases that may not be delegated to an agency subordinate include violations of standards of practice as set forth in 18 VAC 140-20-150, except as may otherwise be determined by the probable cause committee in consultation with the board chair.

C. Criteria for an agency subordinate.

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.

3. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.