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**Call to Order – John Salay, LCSW, Committee Chair**

- Welcome and Introductions
- Mission of the Board

Page 2

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**Approval of Minutes**

- Regulatory Committee Meeting – March 11, 2021\*

Page 3

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**Public Comment**

*The Committee will not receive comment on any pending regulation process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.*

Page 6

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**Unfinished Business**

- Levels of Licensure\*
  - Chart for Recommendation Number 1 and Corresponding Change to Code
  - Chart for Recommendation Number 2 and Corresponding Changes to Code

Page 90

Page 90

Page 99

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**New Business**

- Recommendation to Adopt Notice of Periodic Review\*
- Discussion of Guidance Document regarding Emotional Support Animals

Page 188

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**Next Meeting – September 9, 2021**

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**Meeting Adjournment**

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This information is in **DRAFT** form and is subject to change. The Board will approve the official agenda and packet at the meeting. One printed copy of the agenda and packet will be available for the public to view at the meeting pursuant to Virginia Code Section 2.2-3707(F).



Virginia Department of  
**Health Professions**  
Board of Social Work

## **MISSION STATEMENT**

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Our 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.

Due to the COVID-19 declared state of emergency and consistent with Amendment 28 to HB29 (Budget Bill for 2018-2020) and the applicable provisions of § 2.2-3708.2 in the provisions of Freedom of Information Act, the Board convened a virtual meeting to consider such regulatory and business matters as presented on the agenda necessary for the board to discharge its lawful purposes, duties and responsibilities.

**PRESIDING OFFICER:** John Salay, MSW, LCSW, Committee Chair

**COMMITTEE MEMBERS PRESENT:** Maria Eugenia del Villar, MSW, LCSW  
Michael Hayter, MSW, LCSW, CSAC  
Gloria Manns, MSW, LCSW  
Dolores Paulson, PhD, LCSW

**BOARD STAFF PRESENT:** Latasha Austin, Licensing & Operations Manager  
Jaime Hoyle, J.D., Executive Director  
Jennifer Lang, Deputy Executive Director- Discipline  
Charlotte Lenart, Deputy Executive Director- Licensing  
Sharniece Vaughan, Licensing Specialist

**DHP STAFF PRESENT:** Matt Treacy, Conferencing & Video Specialist, Department of Health Professions  
Henry Fisher, Video Conference Specialist, Department of Health Professions  
Rebecca Schultz, Policy Specialist, Department of Health Professions  
Elaine Yeatts, Senior Policy Analyst, Regulatory Compliance Manager, Department of Health Professions

**VIRTUAL PUBLIC ATTENDEES:** none

**CALL TO ORDER:** Mr. Salay called the virtual regulatory committee meeting to order at 1:01 p.m.

**ROLL CALL/ESTABLISHMENT OF A QUORUM:** Mr. Salay requested a roll call by Ms. Austin. Ms. Austin announced that five members of the committee were present at roll call; therefore, a quorum was established.

Ms. Austin conducted a roll call of staff.

**MISSION STATEMENT:** Ms. Austin read the mission statement of the Department of Health Professions, which is also the mission statement of the Committee and Board.

**APPROVAL OF MINUTES:** Ms. Manns made a motion, which Mr. Hayter properly seconded, to approve the meeting minutes from the Regulatory Committee Meeting held on September 24, 2020 as written. Ms. Austin conducted a roll call vote. With five members present at the time of roll call, the motion passed with five unanimous votes in favor.

**PUBLIC COMMENT:** The Association of Social Work Boards (ASWB) provided public comment related to the Petition for Rulemaking. The Committee would later address the comment under new business on the agenda. No other public comment was provided.

**UNFINISHED BUSINESS:**

**I.** The Committee revisited the training requirement for supervisors. Currently, the regulations require that a supervisor must 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](#) and that the professional training in supervision must be completed every 5 years. The Committee reviewed and discussed a comparison of other state requirements for training for supervisors that staff included in the agenda packet.

**Motion:** Dr. Paulson made a motion, which Ms. del Villar properly seconded, to recommend to the full Board to reduce the amount of professional training hours in supervision that a supervisor must complete every five years from 14 hours to seven hours.

Ms. Austin conducted a roll call vote. With five members present at the time of roll call, the motion passed with five unanimous votes in favor.

To receive Board approval as a supervisor, the Regulations still require supervisor applicants initially to complete 14 hours of supervision training, but the Board only requires seven hours every five years to remain a board approved supervisor.

**NEW BUSINESS:****I. Petition for Rulemaking**

Ms. Yeatts discussed with the Committee a Petition for Rulemaking submitted to the Board by Florine Edmunds requesting to extend the requirement for passage of the licensing examination and allow an additional one to three years for remediation, training and equitable opportunities. Additionally, Ms. Edmunds requested the reduction in the passing score by 10 points and provided study sheets for retaking examination.

There was one comment on the petition from the ASWB, the body that owns the licensing examination. After discussion, the Committee made the following recommendations:

**Motion:** Dr. Paulson made a motion, which Mr. Hayter properly seconded to recommend to the full Board to decline to initiate rulemaking in response to the petition.

Ms. Austin conducted a roll call vote. With five members present at the time of roll call, the motion passed with five unanimous votes in favor.

The consensus was that lowering the cut score for passage of the national examination would jeopardize acceptance of Virginia applicants for licensure in other states. Additionally, an analysis by experts and the ASWB determine the passing score for all candidates, and no basis exists for Virginia choosing a different score.

**Motion:** Dr. Paulson made a motion, which Ms. del Villar properly seconded, to recommend to the full Board to decline to initiate rulemaking in response to the petition to extend further the period during which the Board can approve someone to sit for the examination.

Ms. Austin conducted a roll call vote. With five members present at the time of roll call, the motion passed with five unanimous votes in favor.

In its comment, ASWB noted that Virginia is more generous than many other states in the number of times someone can attempt passage and the amount of time given to do so.

**II. Recommendation for adoption of Advisory Board on Music Therapy Notice of Intended Regulatory Action (NOIRA)**

Ms. Yeatts discussed with the Committee the recommendation that the Advisory Board on Music Therapy made at their first meeting held on February 19, 2021.

**Motion:** Dr. Paulson made a motion, which Ms. del Villar properly seconded, to recommend to the full Board to adopt a Notice of Intended Regulatory Action (NOIRA) for Chapter 30, Regulations Governing the Licensure of Music Therapist.

Ms. Austin conducted a roll call vote. With five members present at the time of roll call, the motion passed with five unanimous votes in favor.

**III. Aligning LMSW to clinical LCSW track**

The Committee discussed aligning the LMSW to the LCSW track. After must discussion, the Committee decided to conduct more research on the matter for clarity. Specifically, the Committee decided to research if there is another state (s) that has regulations similar to what alignments the Committee suggests and to discuss any changes the Committee needs to make at the next meeting.

**IV. Amending the Bylaws**

Ms. Hoyle reviewed the Virginia Board of Social Work Bylaws with the Committee.

**Motion:** Ms. Manns made a motion, which Mr. Hayter properly seconded, to recommend to the full Board to amend Article IV (5) under the General Delegation of Authority section of the bylaws as follows:

*The Board delegates to the Executive Director authority to grant an extension for good cause of up to one (1) ~~year~~ renewal cycle for the completion of continuing education requirements upon written request from the licensee prior to the renewal date.*

Ms. Austin conducted a roll call vote. With five members present at the time of roll call, the motion passed with five unanimous votes in favor.

**NEXT MEETING:**

Mr. Salay announced that the next Regulatory Committee Meeting would occur on July 22, 2021 at 1:00pm.

**ADJOURNMENT:**

Mr. Salay adjourned the March 11, 2021 Regulatory Committee meeting at 3:10p.m.

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John Salay, MSW, LCSW, Committee Chair

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Jaime Hoyle, Executive Director

<b>Jurisdiction</b>	<b>License Name</b>	<b>License Required During Supervision</b>	<b>Title of License Required Under Supervision</b>
Alabama	Licensed Master Social Worker		
Alabama	Licensed Bachelor Social Worker		
Alaska	Licensed Clinical Social Worker		
Alaska	Licensed Master Social Worker		
Alaska	Licensed Baccalaureate Social Worker		
Alberta	Registered Social Worker-Clinical		
Alberta	Provisional Registered Social Worker		
Arizona	Licensed Clinical Social Worker		
Arizona	Licensed Master Social Worker		
Arizona	Licensed Baccalaureate Social Worker		

Arkansas	Licensed Master Social Worker
Arkansas	Licensed Social Worker
British Columbia	Registered Clinical Social Worker
British Columbia	Registered Social Worker
California	Associate Clinical Social Worker
Colorado	Licensed Clinical Social Worker
Colorado	Licensed Social Worker
Connecticut	Licensed Clinical Social Worker
Connecticut	Master's Level Social Worker
Delaware	Licensed Clinical Social Worker
Delaware	Licensed Masters Social Worker

Delaware	Licensed Bachelors Social Worker
District of Columbia	Licensed Independent Social Worker
District of Columbia	Licensed Graduate Social Worker
District of Columbia	Licensed Social Work Associate
Florida	Certified Master Social Worker
Georgia	Licensed Master Social Worker
Guam	Licensed Clinical Social Worker
Guam	Licensed Master Social Worker
Guam	Licensed Bachelor Social Worker
Hawaii	Licensed Social Worker
Hawaii	Licensed Bachelor Social Worker



Idaho	Licensed Master Social Worker
Idaho	Licensed Social Worker
Illinois	Licensed Clinical Social Worker 1
Illinois	Licensed Clinical Social Worker 2
Illinois	Licensed Social Worker 1
Illinois	Licensed Social Worker 2
Indiana	Licensed Social Worker
Indiana	Licensed Bachelor Social Worker
Iowa	Licensed Master Social Worker
Iowa	Licensed Bachelor Social Worker
Kansas	Licensed Master Social Worker

Kansas	Licensed Bachelor Social Worker
Kentucky	Certified Social Worker
Kentucky	Licensed Social Worker 1
Kentucky	Licensed Social Worker 2
Louisiana	Licensed Master Social Worker
Louisiana	Certified Social Worker
Louisiana	Registered Social Worker
Maine	Licensed Masters Social Worker, Clinical Conditional
Maine	Licensed Master Social Worker
Maine	Licensed Social Worker 1
Manitoba	Registered Social Worker

Maryland	Licensed Certified Social Worker
Maryland	Licensed Master Social Worker
Maryland	Licensed Bachelor Social Worker
Massachusetts	Licensed Certified Social Worker
Massachusetts	Licensed Social Worker 1
Massachusetts	Licensed Social Worker 2
Massachusetts	Licensed Social Worker 3
Massachusetts	Licensed Social Worker 4
Massachusetts	Licensed Social Worker 5
Massachusetts	Licensed Social Worker 6
Massachusetts	Licensed Social Work Associate 1

Massachusetts	Licensed Social Work Associate 2
Massachusetts	Licensed Social Work Associate 3
Michigan	Limited License Master's Social Worker
Michigan	Limited Bachelor Social Worker
Michigan	Limited Social Service Technician
Minnesota	Licensed Independent Social Worker
Minnesota	Licensed Graduate Social Worker
Minnesota	Licensed Social Worker
Mississippi	Licensed Master Social Worker
Mississippi	Licensed Social Worker
Missouri	Licensed Master Social Worker

Missouri	Licensed Bachelors Social Worker
Montana	Licensed Clinical Social Worker Candidate
Montana	Licensed Master Social Worker Candidate (non-clinical)
Montana	Licensed Baccalaureate Social Worker Candidate
Nebraska	Provisional Mental Health Practitioner
Nebraska	Certified Master Social Worker
Nebraska	Provisional Certified Master Social Worker
Nebraska	Certified Social Worker
Nevada	Independent Social Worker
Nevada	Social Worker
New Brunswick	Registered Social Worker

New Hampshire	Licensed Independent Clinical Social Worker
New Jersey	Licensed Social Worker
New Jersey	Certified Social Worker 1
New Jersey	Certified Social Worker 2
New Mexico	Licensed Independent Social Worker
New Mexico	Licensed Master Social Worker
New Mexico	Licensed Baccalaureate Social Worker
New York	Licensed Master Social Worker
Newfoundland & Labrador	Registered Social Worker
North Carolina	Licensed Clinical Social Worker Associate
North Carolina	Certified Social Work Manager

North Carolina	Certified Master Social Worker
North Carolina	Certified Social Worker
North Dakota	Licensed Clinical Social Worker
North Dakota	Licensed Master Social Worker
North Dakota	Licensed Baccalaureate Social Worker
Northern Mariana Islands	Licensed Clinical Social Worker
Northern Mariana Islands	Licensed Master Social Worker
Northern Mariana Islands	Licensed Baccalaureate Social Worker
Nova Scotia	Registered Social Worker 1
Nova Scotia	Registered Social Worker 2
Nova Scotia	Registered Social Worker Candidate

Ohio	Licensed Social Worker
Ohio	Social Work Assistant
Oklahoma	Licensed Master Social Worker
Oklahoma	Licensed Social Work Associate
Ontario	Registered Social Worker
Oregon	Certified Social Work Associate
Oregon	Licensed Master's Social Worker
Oregon	Registered Baccalaureate Social Worker
Pennsylvania	Licensed Social Worker
Pennsylvania	Licensed Bachelor Social Worker
Prince Edward Island	Registered Social Worker



Quebec	Social Worker
Rhode Island	Licensed Clinical Social Worker
Saskatchewan	Registered Social Worker
South Carolina	Licensed Master Social Worker
South Carolina	Licensed Baccalaureate Social Worker
South Dakota	Certified Social Worker
South Dakota	Licensed Social Worker
South Dakota	Social Work Associate
Tennessee	Licensed Master Social Worker
Tennessee	Licensed Baccalaureate Social Worker
Texas	Licensed Master Social Worker

Texas	Licensed Baccalaureate Social Worker
Utah	Licensed Clinical Social Worker
Utah	Certified Social Worker
Utah	Social Service Worker 1
Utah	Social Service Worker 2
Vermont	Licensed Independent Clinical Social Worker
Vermont	Licensed Master Social Worker
Virgin Islands	Certified Independent Social Worker
Virgin Islands	Certified Social Worker
Virgin Islands	Social Worker 1
Virgin Islands	Social Worker 2

Virgin Islands	Social Work Associate
Virginia	Licensed Master's Social Worker
Virginia	Associate Social Worker
Washington	Licensed Social Worker Associate Independent Clinical
Washington	Licensed Social Worker Associate Advanced
West Virginia	Licensed Certified Social Worker
West Virginia	Licensed Graduate Social Worker
West Virginia	Licensed Social Worker
Wisconsin	Advanced Practice Social Worker
Wisconsin	Certified Social Worker
Wisconsin	Social Work Training Certificate

Wyoming	Provisional Clinical Social Worker		
Wyoming	Certified Social Worker		
Florida	Registered Clinical Social Worker Intern	No	
Hawaii	Licensed Clinical Social Worker	No	
Maine	Licensed Social Worker 2, Conditional	No	
Oklahoma	Licensed Social Worker	No	
West Virginia	Provisional Licensed Social Worker	No	
Alabama	Licensed Independent Clinical Social Worker	Yes	Licensed Masters Social Worker
Alberta	Registered Social Worker	Yes	Provisional RSW
Arkansas	Licensed Certified Social Worker	Yes	Licensed Master Social Worker
California	Licensed Clinical Social Worker	Yes	Associate Clinical Social Worker

District of Columbia	Licensed Independent Clinical Social Worker	Yes	Licensed Graduate Social Worker
Florida	Licensed Clinical Social Worker	Yes	Registered Clinical Social Work Intern
Georgia	Licensed Clinical Social Worker	Yes	Licensed Masters Social Worker
Idaho	Licensed Clinical Social Worker	Yes	Licensed Master Social Worker
Indiana	Licensed Clinical Social Worker	Yes	Licensed Social Worker
Iowa	Licensed Independent Social Worker	Yes	Licensed Master Social Worker
Kansas	Licensed Specialist Clinical Social Worker	Yes	Licensed Masters Social Worker
Kentucky	Licensed Clinical Social Worker	Yes	Certified Social Worker
Louisiana	Licensed Clinical Social Worker	Yes	Licensed Masters Social Worker
Maine	Licensed Clinical Social Worker 1	Yes	Licensed Master Social Worker-Clinical
Maine	Licensed Clinical Social Worker 2	Yes	Licensed Master Social Worker-Clinical

Maryland	Licensed Certified Social Worker-Clinical	Yes	Licensed Master Social Worker
Massachusetts	Licensed Independent Clinical Social Worker	Yes	Licensed Certified Social Worker
Michigan	Licensed Master Social Worker-Clinical	Yes	Limited License Master's Social Worker
Michigan	Licensed Master Social Worker - Macro	Yes	Limited License Master's Social Worker
Michigan	Licensed Bachelor Social Worker	Yes	Limited Bachelor Social Worker
Michigan	Social Service Technician 1	Yes	Limited Social Service Technician
Michigan	Social Service Technician 2	Yes	Limited Social Service Technician
Michigan	Social Service Technician 3	Yes	Limited Social Service Technician
Minnesota	Licensed Independent Clinical Social Worker	Yes	Licensed Graduate Social Worker
Mississippi	Licensed Certified Social Worker	Yes	Licensed Master Social Worker
Missouri	Licensed Clinical Social Worker	Yes	Licensed Master Social Worker

Missouri	Licensed Advanced Macro Social Worker	Yes	Licensed Master Social Worker
Montana	Licensed Clinical Social Worker	Yes	Social Worker Licensure Candidate
Montana	Licensed Master's Social Worker	Yes	Social Worker Licensure Candidate
Montana	Licensed Baccalaureate Social Worker	Yes	Licensed Baccalaureate Social Worker
Nebraska	Licensed Independent Mental Health Practitioner	Yes	Licensed Mental Health Practitioner
Nebraska	Licensed Mental Health Practitioner	Yes	Provisional Licensed Mental Health
Nevada	Clinical Social Worker	Yes	Social Worker
New Jersey	Licensed Clinical Social Worker	Yes	Licensed Social Worker
New Mexico	Licensed Clinical Social Worker	Yes	Licensed Master Social Worker
New York	Licensed Clinical Social Worker	Yes	Licensed Master Social Worker
North Carolina	Licensed Clinical Social Worker	Yes	LCSW-Associate

Ohio	Licensed Independent Social Worker	Yes	Licensed Social Worker
Oklahoma	Licensed Clinical Social Worker	Yes	Licensed Social Worker-Associate or
Oklahoma	Licensed Social Worker-Administration	Yes	Licensed Social Worker-Administration
Oregon	Licensed Clinical Social Worker	Yes	Certified Social Work Associate
Pennsylvania	Licensed Clinical Social Worker	Yes	Licensed Social Worker
Rhode Island	Licensed Independent Clinical Social Worker	Yes	Licensed Clinical Social Worker
South Carolina	Licensed Independent Social Worker-CP	Yes	Licensed Masters Social Worker
South Carolina	Licensed Independent Social Worker-AP	Yes	Licensed Masters Social Worker
South Dakota	Certified Social Worker Private Independent Practice	Yes	Certified Social Worker
Tennessee	Licensed Clinical Social Worker	Yes	Licensed Masters Social Worker
Tennessee	Licensed Advanced Practice Social Worker	Yes	Licensed Masters Social Worker



Texas	Licensed Clinical Social Worker	Yes	Licensed Masters Social Worker
Texas	Licensed Master Social Worker-Advanced Practice	Yes	Licensed Masters Social Worker
Virginia	Licensed Clinical Social Worker	Yes	Registered Social Worker
Virginia	Licensed Baccalaureate Social Worker	Yes	
Washington	Licensed Independent Clinical Social Worker	Yes	Licensed Social Worker Associate
Washington	Licensed Advanced Social Worker	Yes	Licensed Social Worker Associate
West Virginia	Licensed Independent Clinical Social Worker	Yes	Licensed Graduate Social Worker
Wisconsin	Licensed Clinical Social Worker	Yes	Advanced Practice Social Worker or
Wisconsin	Certified Independent Social Worker	Yes	Advanced Practice Social Worker
Wyoming	Licensed Clinical Social Worker	Yes	Provisional Licensed Clinical Social Worker

Jurisdiction	License Title Abbreviation	License Name	License Required During Supervision if Different?	Exam Required
Alabama	LICSW	Licensed Independent Clinical Social Worker	Yes	Clinical
Alaska 1	LCSW			Clinical
Arizona 2	LCSW			Clinical
Arkansas	LCSW	Licensed Certified Social Worker	Yes	Clinical
California	LCSW	Licensed Clinical Social Worker	Yes	Clinical
Colorado 3	LCSW			Clinical
Connecticut 4	LCSW			Clinical
Delaware 5	LCSW			Clinical
DC	LICSW	Licensed Independent Clinical Social Worker	Yes	Clinical
Florida	LCSW	Licensed Clinical Social Worker	Yes	Clinical
Georgia	LCSW	Licensed Clinical Social Worker	Yes	Clinical
Hawaii 6	LCSW			Clinical
Idaho	LCSW	Licensed Clinical Social Worker	Yes	Clinical
Illinois 7	LCSW1			Clinical
Indiana	LCSW	Licensed Clinical Social Worker	Yes	Clinical
Iowa	LISW	Licensed Independent Social Worker	Yes	Clinical
Kansas	LSCSW	Licensed Specialist Clinical Social Worker	Yes	Clinical
Kentucky	LCSW	Licensed Clinical Social Worker	Yes	Clinical
Louisiana	LCSW	Licensed Clinical Social Worker	Yes	Clinical
Maine	LCSW1 (LC)	Licensed Clinical Social Worker 1	Yes	Clinical
Maryland	LCSW-C	Licensed Certified Social Worker-Clinical	Yes	Clinical
Massachusetts	LICSW	Licensed Independent Clinical Social Worker	Yes	Clinical
Michigan	LMSW-C	Licensed Master Social Worker-Clinical	Yes	Clinical
Minnesota	LICSW	Licensed Independent Clinical Social Worker	Yes	Clinical
Mississippi	LCSW	Licensed Certified Social Worker	Yes	Clinical
Missouri	LCSW	Licensed Clinical Social Worker	Yes	Clinical
Montana	LCSW	Licensed Clinical Social Worker	Yes	Clinical
Nebraska	LMHP	Licensed Independent Mental Health Practitioner	Yes	Clinical
Nevada	CSW	Clinical Social Worker	Yes	Clinical



*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: March 18, 2021**

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## TABLE OF CONTENTS

Part I. General Provisions.....	3
18VAC140-20-10. Definitions.....	3
18VAC140-20-20. [Repealed] .....	4
18VAC140-20-30. Fees. ....	4
18VAC140-20-35. Sex offender treatment provider certification. ....	5
18VAC140-20-37. Licensure; general. ....	5
 Part II. Requirements for Licensure. ....	 5
18VAC140-20-40. Requirements for licensure by examination as a clinical social worker.....	 5
18VAC140-20-45. Requirements for licensure by endorsement. ....	6
18VAC140-20-49. Educational requirements for a licensed clinical social worker. ....	7
18VAC140-20-50. Experience requirements for a licensed clinical social worker. ....	7
18VAC140-20-51. Requirements for licensure by examination as an LBSW or LMSW.....	 10
18VAC140-20-60. Education requirements for an LBSW or LMSW.....	10
 Part III Examinations .....	 11
18VAC140-20-70. Examination requirement. ....	11
18VAC140-20-80 to 18VAC140-20-90. [Repealed] .....	11
 Part IV. Licensure Renewal; Reinstatement.....	 11
18VAC140-20-100. Licensure renewal. ....	11
18VAC140-20-105. Continued competency requirements for renewal of an active license.....	 12
18VAC140-20-106. Documenting compliance with continuing education requirements. ....	 13
18VAC140-20-110. Late renewal; reinstatement; reactivation. ....	14
18VAC140-20-120. [Repealed] .....	15
18VAC140-20-130. Renewal of registration for associate social workers and registered social workers. ....	 15
18VAC140-20-140. [Repealed] .....	15
 Part V. Standards of Practice.....	 15
18VAC140-20-150. Professional conduct. ....	15
18VAC140-20-160. Grounds for disciplinary action or denial of issuance of a license or registration. ....	 18
18VAC140-20-170. Reinstatement following disciplinary action.....	18
18VAC140-20-171. Criteria for delegation of informal fact-finding proceedings to an agency subordinate. ....	 19

## **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:

Baccalaureate social worker

Board

Casework

Casework management and supportive services

Clinical social worker

Master's 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 psychosocial interventions, psychotherapy, and counseling for mental disorders, substance abuse, marriage and family dysfunction, and problems caused by social and psychological stress or health impairment.

"Conversion therapy" means any practice or treatment as defined in § 54.1-2409.5 A of the Code of Virginia.

"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 " means the physical presence of the individuals involved in the supervisory relationship during either individual or group supervision or in the delivery of clinical social work services by a supervisee and may include the use of technology that provides real-time, interactive contact among the individuals involved.

"LBSW" means a licensed baccalaureate social worker.

"LMSW" means a licensed master's social worker.

"Nonexempt practice" means 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.

"Supervisory contract" means an agreement that outlines the expectations and responsibilities of the supervisor and supervisee in accordance with regulations of the board.

**18VAC140-20-20. [Repealed]**

**18VAC140-20-30. Fees.**

A. The board has established fees for the following:

1. Registration of supervision	\$50
2. Addition to or change in registration of supervision	\$25
3. Application processing	
a. Licensed clinical social worker	\$165
b. LBSW	\$100
c. LMSW	\$115
4. Annual license renewal	
a. Registered social worker	\$25
b. Associate social worker	\$25
c. LBSW	\$55
d. LMSW	\$65
e. Licensed clinical social worker	\$90

5. Penalty for late renewal	
a. Registered social worker	\$10
b. Associate social worker	\$10
c. LBSW	\$20
d. LMSW	\$20
e. Licensed clinical social worker	\$30
6. Verification of license to another jurisdiction	\$25
7. Additional or replacement licenses	\$15
8. Additional or replacement wall certificates	\$25
9. Handling fee for returned check or dishonored credit or debit card	\$50
10. Reinstatement following disciplinary action	\$500

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.**

LBSWs and LMSWs may practice in exempt practice settings under appropriate supervision. In accordance with § 54.1-3700 of the Code of Virginia, an LBSW shall engage in the practice of social work under the supervision of a master's social worker. 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 licensed 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 documentation submitted from the appropriate institutions of higher education that verifies successful completion of educational requirements set forth in 18VAC140-20-49;

d. Documentation of any other health or mental health licensure or certification, if applicable; and

e. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).

3. Provide evidence of passage of the examination prescribed in 18VAC140-20-70.

**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. 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 National Practitioner Data Bank (NPDB).

6. Verification of:

a. Active practice at the level for which the applicant is seeking licensure in another United States jurisdiction for 24 out of the past 60 months;

b. Active practice in an exempt setting at the level for which the applicant is seeking licensure for 24 out of the past 60 months; or

c. Evidence of supervised experience requirements substantially equivalent to those outlined in 18VAC140-20-50 A 2 and A 3.

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 without prior written board approval will not be accepted toward licensure, except supervision obtained in another United States jurisdiction may be accepted if it met the requirements of that jurisdiction. Prior to registration for supervised experience, a person shall satisfactorily complete the educational requirements of 18VAC140-20-49.

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 a supervisor:

a. Register on a form provided by the board;

- b. Submit a copy of a supervisory contract completed by the supervisor and the supervisee;
- c. Submit an official transcript documenting a graduate degree and clinical practicum as specified in 18VAC140-20-49; and
- d. 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. Supervised experience shall be acquired in no less than two nor more than four consecutive years.
- b. Supervisees shall 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 may request an extension of up to 12 months. The request for an extension shall include evidence that demonstrates extenuating circumstances that prevented completion of the supervised experience within four consecutive years.

#### 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 two years of post-licensure 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 United States 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 or provide supervision for anyone with whom he has 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;
7. Maintain documentation, for five years post-supervision, of which clients were the subject of supervision; and
8. Ensure that the board is notified of any change in supervision or if supervision has ended or been terminated by the supervisor.

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.

5. While providing clinical social work services, a supervisee shall remain under board approved supervision until licensed in Virginia as a licensed clinical social worker.

**18VAC140-20-51. Requirements for licensure by examination as an LBSW or LMSW.**

A. In order to be approved to sit for the board-approved examination as an LBSW or an LMSW, an applicant shall:

1. Meet the education requirements prescribed in 18VAC140-20-60.
2. Submit a completed application to the board office to include:
  - a. The application fee prescribed in 18VAC140-20-30; and
  - b. Official transcripts submitted from the appropriate institutions of higher education.

B. In order to be licensed by examination as an LBSW or an LMSW, an applicant shall:

1. Meet the requirements prescribed in 18VAC140-20-60; and
2. Submit, in addition to the application requirements of subsection A of this section, the following:
  - a. Verification of a passing score on the board-approved national examination;
  - b. Documentation of any other health or mental health licensure or certification, if applicable; and
  - c. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).

**18VAC140-20-60. Education requirements for an LBSW or LMSW.**

The applicant for licensure as an LBSW shall hold a bachelor's degree from an accredited school of social work. The applicant for licensure as an LMSW shall hold 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.

## **Part III Examinations**

### **18VAC140-20-70. Examination requirement.**

A. An applicant for licensure by the board as an LBSW, an LMSW, 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 an LBSW shall be the licensing examination of the Association of Social Work Boards at the bachelor's level.
3. The examination prescribed for licensure as an LMSW shall be the licensing examination of the Association of Social Work Boards at the master's level.

B. An applicant 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 applicant 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 in order to be approved for another two years in which to pass the examination.

C. If an applicant for clinical social work licensure has not passed the examination within the second two-year approval period, the applicant shall be required to register for supervision and complete one additional year as a supervisee before approval for another two-year period in which to re-take the examination may be granted.

### **18VAC140-20-80 to 18VAC140-20-90. [Repealed]**

## **Part IV. Licensure Renewal; Reinstatement.**

### **18VAC140-20-100. Licensure renewal.**

A. Beginning with the 2017 renewal, licensees shall renew their licenses on or before June 30 of each 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 annual 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 LBSWs and LMSWs shall be required to have completed a minimum of 15 contact hours of continuing education prior to licensure renewal in even years. Courses or activities shall be directly related to the practice of social work or another behavioral health field. A minimum of six of those hours for licensed clinical social workers and a minimum of three of those hours for licensed social workers 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. Up to two continuing education hours required for renewal may be satisfied through delivery of social work services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services, as verified by the department or clinic. Three hours of volunteer service is required for one hour of continuing education credit.

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 and 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 or 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 or 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, or 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 three years following renewal.

B. The board may conduct an audit of licensees to verify compliance with the requirement for a 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. An LBSW, LMSW, or clinical social worker whose license has expired may renew that license within one year 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 renewal fee as prescribed in 18VAC140-20-30.

B. An LBSW, LMSW, or clinical social worker who fails to renew the license after one year and who wishes to resume practice shall apply for reinstatement and pay the reinstatement fee, which shall consist of the application processing fee and the penalty fee for late renewal, as set forth in 18VAC140-20-30. An applicant for reinstatement shall also provide:

1. Documentation of having completed all applicable continued competency hours equal to the number of years the license has lapsed, not to exceed four years;
2. Documentation of any other health or mental health licensure or certification held in another United States jurisdiction, if applicable; and
3. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank.

C. In addition to requirements set forth in subsection B of this section, an applicant for reinstatement whose license has been lapsed for 10 or more years shall also provide evidence of competency to practice by documenting:

1. Active practice in another United States jurisdiction for at least 24 out of the past 60 months immediately preceding application;
2. Active practice in an exempt setting for at least 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 reinstatement of licensure in Virginia. The supervised practice shall include a minimum of 60 hours of face-to-face direct client contact and nine hours of face-to-face supervision.

D. An LBSW, LMSW, or clinical social worker wishing to reactivate an inactive license shall submit the difference between the renewal fee for active licensure and the fee 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 10 or more years shall also provide evidence of competency to practice by documenting:

1. Active practice in another United States jurisdiction for at least 24 out of the past 60 months immediately preceding application;
2. Active practice in an exempt setting for at least 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 reactivation of licensure in Virginia. The supervised practice shall include a minimum of 60 hours of face-to-face direct client contact and nine hours of face-to-face supervision.

**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 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 LBSWs, LMSWs, 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.

13. Not engage in conversion therapy with any person younger than 18 years of age.

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 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 familial, social, financial, business, bartering, or a close personal relationship with a client or supervisee.) 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 relationship 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. Upon learning of evidence that indicates a reasonable probability that another mental health provider is or may be guilty of a violation of standards of conduct as defined in statute or regulation, persons licensed by the board shall advise their clients of their right to report such misconduct to the Department of Health Professions in accordance with § 54.1-2400.4 of the Code of Virginia.

**18VAC140-20-160. Grounds for disciplinary action or denial of issuance of a license or registration.**

The board may refuse to admit an applicant to an examination; refuse to issue a license or registration 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 or registration 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 the 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.

Jurisdiction	License Name	License Required During Supervision if Different?	Title of License Required Under Supervision
Alabama	Licensed Independent Clinical Social Worker	Yes	Licensed Masters Social Worker
Arkansas	Licensed Certified Social Worker	Yes	Licensed Master Social Worker
California	Licensed Clinical Social Worker	Yes	Associate Clinical Social Worker
DC	Licensed Independent Clinical Social Worker	Yes	Licensed Graduate Social Worker
Florida	Licensed Clinical Social Worker	Yes	Registered Clinical Social Work Intern
Georgia	Licensed Clinical Social Worker	Yes	Licensed Masters Social Worker
Idaho	Licensed Clinical Social Worker	Yes	Licensed Master Social Worker
Indiana	Licensed Clinical Social Worker	Yes	Licensed Social Worker
Iowa	Licensed Independent Social Worker	Yes	Licensed Master Social Worker
Kansas	Licensed Specialist Clinical Social Worker	Yes	Licensed Masters Social Worker
Kentucky	Licensed Clinical Social Worker	Yes	Certified Social Worker
Louisiana	Licensed Clinical Social Worker	Yes	Licensed Masters Social Worker
Maine	Licensed Clinical Social Worker 1	Yes	Licensed Master Social Worker-Clinical Conditional
Maine	Licensed Clinical Social Worker 2	Yes	Licensed Master Social Worker-Clinical Conditional
Maryland	Licensed Certified Social Worker-Clinical	Yes	Licensed Master Social Worker
Massachusetts	Licensed Independent Clinical Social Worker	Yes	Licensed Certified Social Worker
Michigan	Licensed Master Social Worker-Clinical	Yes	Limited License Master's Social Worker
Minnesota	Licensed Independent Clinical Social Worker	Yes	Licensed Graduate Social Worker
Mississippi	Licensed Certified Social Worker	Yes	Licensed Master Social Worker
Missouri	Licensed Advanced Macro Social Worker	Yes	Licensed Master Social Worker
Missouri	Licensed Clinical Social Worker	Yes	Licensed Master Social Worker
Montana	Licensed Baccalaureate Social Worker	Yes	Licensed Baccalaureate Social Worker Candidate
Montana	Licensed Clinical Social Worker	Yes	Social Worker Licensure Candidate
Montana	Licensed Master's Social Worker	Yes	Social Worker Licensure Candidate
Nebraska	Licensed Independent Mental Health Practitioner	Yes	Licensed Mental Health Practitioner
Nebraska	Licensed Mental Health Practitioner	Yes	Provisional Licensed Mental Health Practitioner or Certified Master Social Worker
Nevada	Clinical Social Worker	Yes	Social Worker

New Jersey	Licensed Clinical Social Worker	Yes	Licensed Social Worker
New Mexico	Licensed Clinical Social Worker	Yes	Licensed Master Social Worker
New York	Licensed Clinical Social Worker	Yes	Licensed Master Social Worker
North Carolina	Licensed Clinical Social Worker	Yes	LCSW-Associate
Ohio	Licensed Independent Social Worker	Yes	Licensed Social Worker
Oklahoma	Licensed Clinical Social Worker	Yes	Licensed Social Worker-Associate or Licensed Master Social Worker
Oklahoma	Licensed Social Worker-Administration	Yes	Licensed Social Worker-Administration or Licensed Master Social Worker
Oregon	Licensed Clinical Social Worker	Yes	Certified Social Work Associate
Pennsylvania	Licensed Clinical Social Worker	Yes	Licensed Social Worker
Rhode Island	Licensed Independent Clinical Social Worker	Yes	Licensed Clinical Social Worker
South Carolina	Licensed Independent Social Worker-AP	Yes	Licensed Masters Social Worker
South Carolina	Licensed Independent Social Worker-CP	Yes	Licensed Masters Social Worker
South Dakota	Certified Social Worker Private Independent Practice	Yes	Certified Social Worker
Tennessee	Licensed Advanced Practice Social Worker	Yes	Licensed Masters Social Worker
Tennessee	Licensed Clinical Social Worker	Yes	Licensed Masters Social Worker
Texas	Licensed Clinical Social Worker	Yes	Licensed Masters Social Worker
Texas	Licensed Master Social Worker-Advanced Practice	Yes	Licensed Masters Social Worker
Virginia	Licensed Baccalaureate Social Worker	Yes	
Virginia	Licensed Clinical Social Worker	Yes	Registered Social Worker
Washington	Licensed Advanced Social Worker	Yes	Licensed Social Worker Associate Advanced
Washington	Licensed Independent Clinical Social Worker	Yes	Licensed Social Worker Associate Independent Clinical
West Virginia	Licensed Independent Clinical Social Worker	Yes	Licensed Graduate Social Worker
Wisconsin	Certified Independent Social Worker	Yes	Advanced Practice Social Worker
Wisconsin	Licensed Clinical Social Worker	Yes	Advanced Practice Social Worker or Independent Social Worker
Wyoming	Licensed Clinical Social Worker	Yes	Provisional Licensed Clinical Social Worker



## § 54.1-2400. General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

1. To establish the qualifications for registration, certification, licensure, permit, or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.
2. To examine or cause to be examined applicants for certification, licensure, or registration. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.
3. To register, certify, license, or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.
4. To establish schedules for renewals of registration, certification, licensure, permit, and the issuance of a multistate licensure privilege.
5. To levy and collect fees for application processing, examination, registration, certification, permitting, or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions, and the health regulatory boards.
6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system, which shall include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those health services. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.).
7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license, permit, or multistate licensure privilege which such board has authority to issue for causes enumerated in applicable law and regulations.
8. To appoint designees from their membership or immediate staff to coordinate with the Director and the Health Practitioners' Monitoring Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.). Each health regulatory board shall appoint one such designee.
9. To take appropriate disciplinary action for violations of applicable law and regulations, and to accept, in their discretion, the surrender of a license, certificate, registration, permit, or

multistate licensure privilege in lieu of disciplinary action.

10. To appoint a special conference committee, composed of not less than two members of a health regulatory board or, when required for special conference committees of the Board of Medicine, not less than two members of the Board and one member of the relevant advisory board, or, when required for special conference committees of the Board of Nursing, not less than one member of the Board and one member of the relevant advisory board, to act in accordance with § 2.2-4019 upon receipt of information that a practitioner or permit holder of the appropriate board may be subject to disciplinary action or to consider an application for a license, certification, registration, permit or multistate licensure privilege in nursing. The special conference committee may (i) exonerate; (ii) reinstate; (iii) place the practitioner or permit holder on probation with such terms as it may deem appropriate; (iv) reprimand; (v) modify a previous order; (vi) impose a monetary penalty pursuant to § 54.1-2401, (vii) deny or grant an application for licensure, certification, registration, permit, or multistate licensure privilege; and (viii) issue a restricted license, certification, registration, permit or multistate licensure privilege subject to terms and conditions. The order of the special conference committee shall become final 30 days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the 30-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 2.2-4020, and the action of the committee shall be vacated. This subdivision shall not be construed to limit the authority of a board to delegate to an appropriately qualified agency subordinate, as defined in § 2.2-4001, the authority to conduct informal fact-finding proceedings in accordance with § 2.2-4019, upon receipt of information that a practitioner may be subject to a disciplinary action. The recommendation of such subordinate may be considered by a panel consisting of at least five board members, or, if a quorum of the board is less than five members, consisting of a quorum of the members, convened for the purpose of issuing a case decision. Criteria for the appointment of an agency subordinate shall be set forth in regulations adopted by the board.

11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 2.2-4020, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 2.2-4019 shall serve on a panel conducting formal proceedings pursuant to § 2.2-4020 to consider the same matter.

12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of licenses or certificates.

13. To meet by telephone conference call to consider settlement proposals in matters pending before special conference committees convened pursuant to this section, or matters referred for formal proceedings pursuant to § 2.2-4020 to a health regulatory board or a panel of the board or to consider modifications of previously issued board orders when such considerations have been requested by either of the parties.

14. To request and accept from a certified, registered, or licensed practitioner; a facility holding a license, certification, registration, or permit; or a person holding a multistate licensure privilege

to practice nursing, in lieu of disciplinary action, a confidential consent agreement. A confidential consent agreement shall be subject to the confidentiality provisions of § 54.1-2400.2 and shall not be disclosed by a practitioner or facility. A confidential consent agreement shall include findings of fact and may include an admission or a finding of a violation. A confidential consent agreement shall not be considered either a notice or order of any health regulatory board, but it may be considered by a board in future disciplinary proceedings. A confidential consent agreement shall be entered into only in cases involving minor misconduct where there is little or no injury to a patient or the public and little likelihood of repetition by the practitioner or facility. A board shall not enter into a confidential consent agreement if there is probable cause to believe the practitioner or facility has (i) demonstrated gross negligence or intentional misconduct in the care of patients or (ii) conducted his practice in such a manner as to be a danger to the health and welfare of his patients or the public. A certified, registered, or licensed practitioner, a facility holding a license, certification, registration, or permit, or a person holding a multistate licensure privilege to practice nursing who has entered into two confidential consent agreements involving a standard of care violation, within the 10-year period immediately preceding a board's receipt of the most recent report or complaint being considered, shall receive public discipline for any subsequent violation within the 10-year period unless the board finds there are sufficient facts and circumstances to rebut the presumption that the disciplinary action be made public.

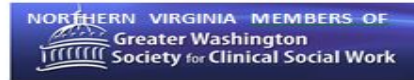
15. When a board has probable cause to believe a practitioner is unable to practice with reasonable skill and safety to patients because of excessive use of alcohol or drugs or physical or mental illness, the board, after preliminary investigation by an informal fact-finding proceeding, may direct that the practitioner submit to a mental or physical examination. Failure to submit to the examination shall constitute grounds for disciplinary action. Any practitioner affected by this subsection shall be afforded reasonable opportunity to demonstrate that he is competent to practice with reasonable skill and safety to patients. For the purposes of this subdivision, "practitioner" shall include any person holding a multistate licensure privilege to practice nursing.

1988, c. 765; 1992, cc. 659, 890; 1997, cc. 439, 564; 1998, c. 469; 2002, cc. 455, 698; 2003, cc. 753, 762; 2004, cc. 49, 64; 2009, cc. 472, 534; 2010, c. 414; 2014, c. 426; 2016, c. 82; 2017, c. 423.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.



AND



*Virginia Society for Clinical Social Work  
10106-C Palace Way  
Henrico, Virginia 23238*

*The Greater Washington Society for Clinical Social Work  
PO Box 711  
Garrisonville, VA 22463*

***VSCSW STUDY OF VIRGINIA LSW'S  
OCTOBER 5, 2017  
BY: Joseph G. Lynch LCSW***



**OCTOBER 5, 2017**  
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**BACKGROUND FOR LSW STUDY:**

At the May 11, 2017 Board meeting of The Virginia Board of Social Work (VBSW) a motion was passed to accept as written the proposed legislation recommended by the Regulatory committee. The proposed legislation would add 4 sentences to *Chapter 37 of Title 54.1 of the Code of Virginia; Social Work*. The 4 sentences to be added are below. (See Appendix "A" for the complete text of proposed legislation)

***§ 54.1-3700. Definitions.***

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

*Baccalaureate social worker means a person, engaged in the practice of social work, who practices under the supervision of a master's social worker within an entity not otherwise exempted by provisions of § 54.1-3701 and who is engaged in a basic generalist practice to include casework management and supportive services and consultation and education.*

*Master's social worker means a person, engaged in the practice of social work, who is employed by an entity not otherwise exempted by provisions of § 54.1-3701 and who is engaged in a non-clinical, generalist scope of practice of social work to include staff supervision and management.*

***§ 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:*

*5. To license baccalaureate social workers, master's social workers, and clinical social workers to practice consistent with the definitions specified in § 54.1-3700 and regulations promulgated by the Board.*

*6. To register persons for the supervised practice of social work as required for licensure as a clinical social worker.*

**WHAT DO WE KNOW ABOUT PERSONS WHO CURRENTLY HOLD THE LSW?**

The group of social workers that would be most impacted by the proposed legislation are those social workers who currently have the LSW license and those social workers who would apply for the LSW license. Some of the ways that this group would be impacted are:

- The new legislation would enable the VBSW to create a LBSW and LMSW license.
- The new legislation would enable the VBSW to require the LBSW applicant to take the ASWB Bachelor's level exam.

- The new legislation would enable the VBSW to require the LMSW applicant to take the ASWB Master’s level exam.
- The new legislation would define "Masters Social Worker" as a social worker who is engaged in the practice of "**non-clinical**" social work.
- The new legislation would specify that the LMSW is “...engaged in a **non-clinical, generalist scope of practice of social work to include staff supervision and management...**”

The Department of Health Professions (DHP) gathers some information on all licensees and produces Quarterly Reports of this data that are available on the DHP website. From the most recent Quarterly Report (March 31, 2017) we know that there are 816 persons who are currently licensed by the Virginia Board of Social Work (VBSW) as a Licensed Social Worker (LSW) (See Appendix B)

When a group of professionals are likely to be impacted by new legislation they usually will make public comments or have their lobbyist make known to the regulatory board their opinions on the proposed legislation. No LSW has come forward to make any public comment on the VBSW proposed legislation.

The VSCSW Legislative committee took note of this and realized that we actually knew very little about this group of social workers. Committee Chair Joe Lynch contacted Jaime Hoyle, Executive Director of the VBSW and made a Virginia Freedom of Information Act (FOIA) request for any existing documents that could answer the questions in the table below. Ms. Hoyle’s answers to the VA FOIA request are also listed in the table.

	Questions sent to Jaime Hoyle under Virginia FOIA	Answers to questions:
1	How many of the 846 LSW's are Bachelor's social workers?	<p>The Board does not track the number of LSWs that hold a bachelor’s versus master’s degree. We also do not have any information about those that are employed in non-clinical/clinical practice, exempt/non-exempt settings or how many are required to be licensed by their employer. We do not track this information either.</p>
2	How many of the 846 LSW's are Master’s social workers?	
3	How many of the LSW's are employed in "non-clinical" social work practice?	
4	How many are engaged in “clinical” social work practice?	
5	How many of the LSW’s are employed in exempt settings?	
6	How many of the LSW’s are employed in non-exempt settings?	
7	How many of the LSW's are required by their employer to have the LSW?	
8	Is a copy of the questionnaire required for LCSW license renewal available to me under VA FOIA?	
9	If yes, can you send me a copy of the questionnaire?	The questionnaire was emailed to me.
10	Were the LSW’s required to fill out a similar questionnaire when renewing the LSW license online?	No.
11	If yes, can you send me a copy of that questionnaire as well?	NA

**PROPOSAL FOR STUDY:**

Given the lack of information on LSW’s the VSCSW Legislative Committee proposed to the VSCSW Board of Directors at the July 15, 2017 Board meeting that they authorize the Legislative committee to conduct a study to collect data from currently licensed LSW’s in order to assist the committee, the VSCSW, the GWSCSW and our lobbyist to be prepared for the 2018 Virginia General

Assembly in regard to the VBSW proposed legislation. The VSCSW LSW Study was approved at the July 15, 2017 Board meeting. The timeline for the study required that the following facts be considered:

- The 2018 Virginia General Assembly starts on January 10, 2018.
- The VBSW had two board meetings scheduled prior to the start of the General Assembly (August 11, 2017 and October 27, 2017) but the August 11, 2017 Board meeting was cancelled so there will only be one opportunity (October 27, 2017) to present the VSCSW LSW Study results to the full VBSW prior to the beginning of the General Assembly.

With these time constraints in mind the legislative committee developed the below timeline:

	<b>STEPS</b>	<b>TIMELINE</b>
<b>1</b>	VSCSW Board of Directors approves LSW study.	July 15, 2017
<b>2</b>	Purchase the VIP-NET list of LSW's (* From March 31, 2017 to June 13, 2017 an additional 30 LSW's were added to the VIP-Net list for a total of 846)	June 13, 2017- list purchased
<b>3</b>	Convert the VIP-NET list of 846 LSW's into a mail-merged Word document of mailing labels.	June 17, 2017
<b>4</b>	Develop an assessment instrument.	July 15, 2017
<b>5</b>	Use bulk mailing to send 846 LSW/s a cover letter, a questionnaire and the proposed legislation.	August 1, 2017
<b>6</b>	Establish a process for analysis of the data from the returned questionnaires.	Aug-September 2017
<b>7</b>	Conduct analysis of data on returned questionnaires.	September 2017
<b>8</b>	Present report on data to VSCSW Board of Directors	September 9, 2017
<b>7</b>	Present report of LSW study results to VBSW	October 27, 2017

(\*See Appendix B for DHP Quarterly Report on number of LSW's, and LCSW's)

**OUTLINE OF STUDY:**

- Included in the mailing to each LSW were:
  1. A one page questionnaire with 10 questions. The questionnaire contained 8 multiple choice type questions and two open ended response type questions.
  2. A listing of the 4 sentences to be added to the social work law by the VBSW proposed legislation (The cover letter included information with the URL to the full text of the legislation on the VBSW website)
  3. A cover letter describing the study and offering the option to complete the questionnaire online.  
(See Appendix C for copies of these three documents)
- The mailing was sent out on July 28, 2017.
- There was no “return due date” in the letter.
- Responses were collected from August 1, 2017 to September 1, 2017.
- The online version of the questionnaire was hosted by Survey Monkey which tabulated the data for those questionnaires.

- The data from the mailed returned questionnaires was added to the Survey Monkey data.
- The JMU BSW Social Work Department assisted with Content Analysis of the open ended question responses.

## **RESULTS OF LSW STUDY:**

### **SAMPLE SIZE:**

VIP NET provided 846 LSW addresses. (\*Apparently 30 more LSW's were licensed between the date of the Quarterly report – March 31, 2017 – and the date the VIP NET addresses were purchased in June 13, 2017) An anomaly occurred with the mailing that is described below.

### **ANOMALY:**

Persons licensed by the Virginia Board of Social Work are required by the VBSW regulations **18VAC140-20-100 (D)** to provide a current address to the Board:

*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.*

The VIP NET address list is based upon the information the licensee provides to the DHP. The questionnaires were mailed out to the 846 LSW addresses provided by VIP NET on June 13, 2017. The mailing included a design for the USPS to return any envelope that they were unable to deliver. Of the 846 questionnaires that were mailed out 126 (15%) were returned because they were undeliverable. They were undeliverable for the following reasons:

1. No forwarding address
2. Time to forward expired
3. No such address

**(\* A listing of the 126 returned addresses were provided to the VBSW but not included in this document)**

So the possible sample size was reduced by 126 to 720. Of those 720 the number of returned questionnaires was 107 (15%).

## **WHERE DO LSW'S RESIDE?**

Based on the original 846 addresses provided by VIP NET:

- The majority of LSW's (670 [79%]) have a Virginia address.



**BASED ON THE 107 RETURNED QUESTIONNAIRES:**

- The remaining 176 LSW’s reside in 33 of the other 49 states, in Washington DC and there were two with military addresses – one APO-Pacific and one APO-Europe (See Appendix D).

<b>GENDER OF LSW’s (See Appendix H)</b>	<b>NUMBER</b>	<b>PERCENTAGE</b>
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- Fifty Five (55 [7%]) LSW’s reside in the states that are contiguous to Virginia (Maryland, West Virginia, Tennessee, and Kentucky)
- Fifteen (15 [2%]) reside in Washington DC.
- Combined there are 84 LSW’s that reside in contiguous jurisdictions.
- The other 92 (11%) LSW’s are widely distributed across the country.
- There were some unexpected distributions of LSW’s. For example there are as many LSW’s in New York as there are in North Carolina.
- Of the 670 LSW’s that live in Virginia 487 (73%) reside in the major urban areas of Richmond, Northern Virginia, Tidewater and Roanoke
  - ❖ See Appendix “E” for rank order listing of LSW’s by jurisdiction
  - ❖ See Appendix “F” Map of distribution of LSW’s
  - ❖ See Appendix “G” Map of Distribution of LSW’s within Virginia

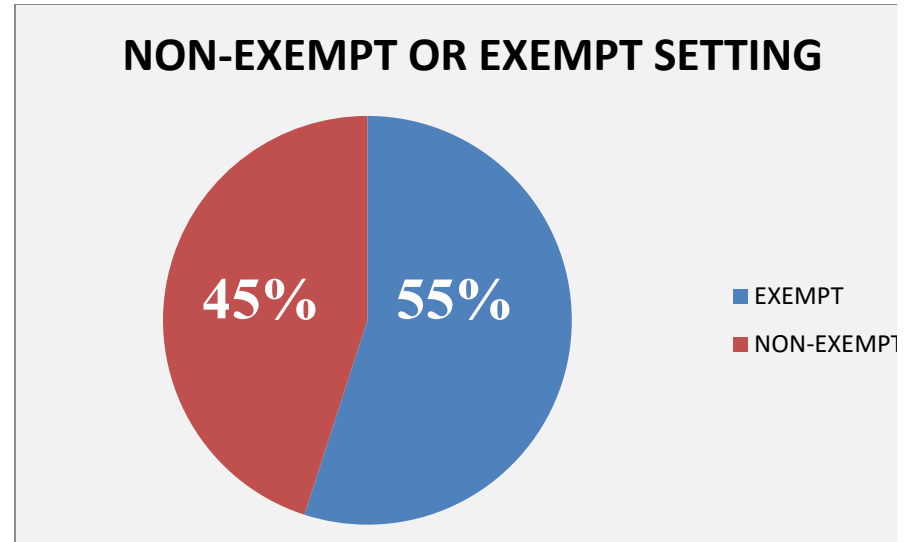
<b>FEMALES</b>	<b>98</b>	<b>92%</b>
<b>MALES</b>	<b>9</b>	<b>8%</b>

<b>DEGREE OF LICENSEE (See Appendix I)</b>	<b>NUMBER</b>	<b>PERCENTAGE</b>
<b>MSW</b>	<b>102</b>	<b>95%</b>
<b>BSW</b>	<b>5</b>	<b>5%</b>

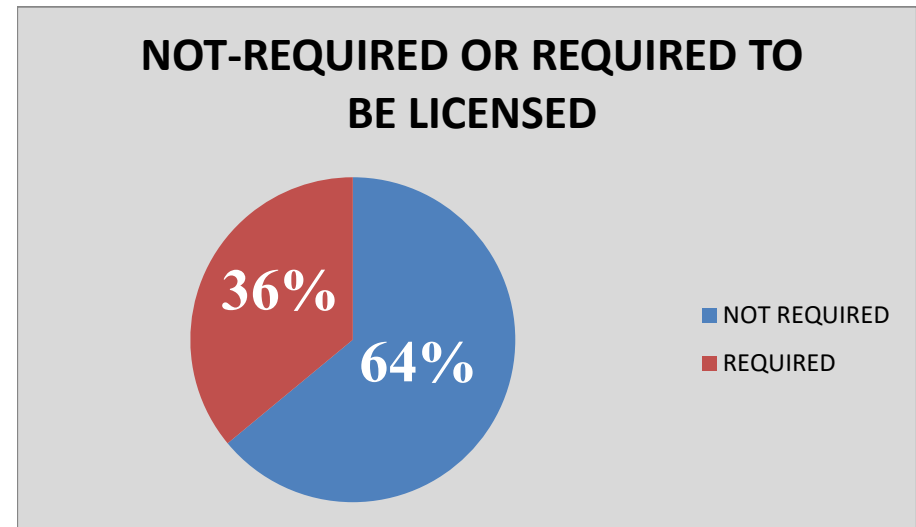
<b>NUMBER OF YEARS THE PERSON BEEN LICENSED AS AN LSW (See Appendix K)</b>	<b>NUMBER OF LSW's</b>	<b>PERCENTAGE</b>
<b>1</b>	<b>11</b>	<b>10%</b>
<b>2</b>	<b>19</b>	<b>18%</b>
<b>3</b>	<b>13</b>	<b>12%</b>
<b>4</b>	<b>10</b>	<b>9%</b>
<b>5</b>	<b>9</b>	<b>8%</b>
<b>6</b>	<b>45</b>	<b>42%</b>

<b>TYPE OF SOCIAL WORK PRACTICE (See Appendix J)</b>	<b>Number of LSW's</b>	<b>Percentage</b>
<b>Clinical</b>	<b>42</b>	<b>39%</b>
<b>Non-Clinical</b>	<b>11</b>	<b>10%</b>
<b>Mix of Clinical and Non-Clinical</b>	<b>54</b>	<b>51%</b>

NON-EXEMPT OR EXEMPT PRACTICE SETTING (See Appendix)	NUMBER	PERCENTAGE
NON-EXEMPT	48	45%
EXEMPT	59	55%

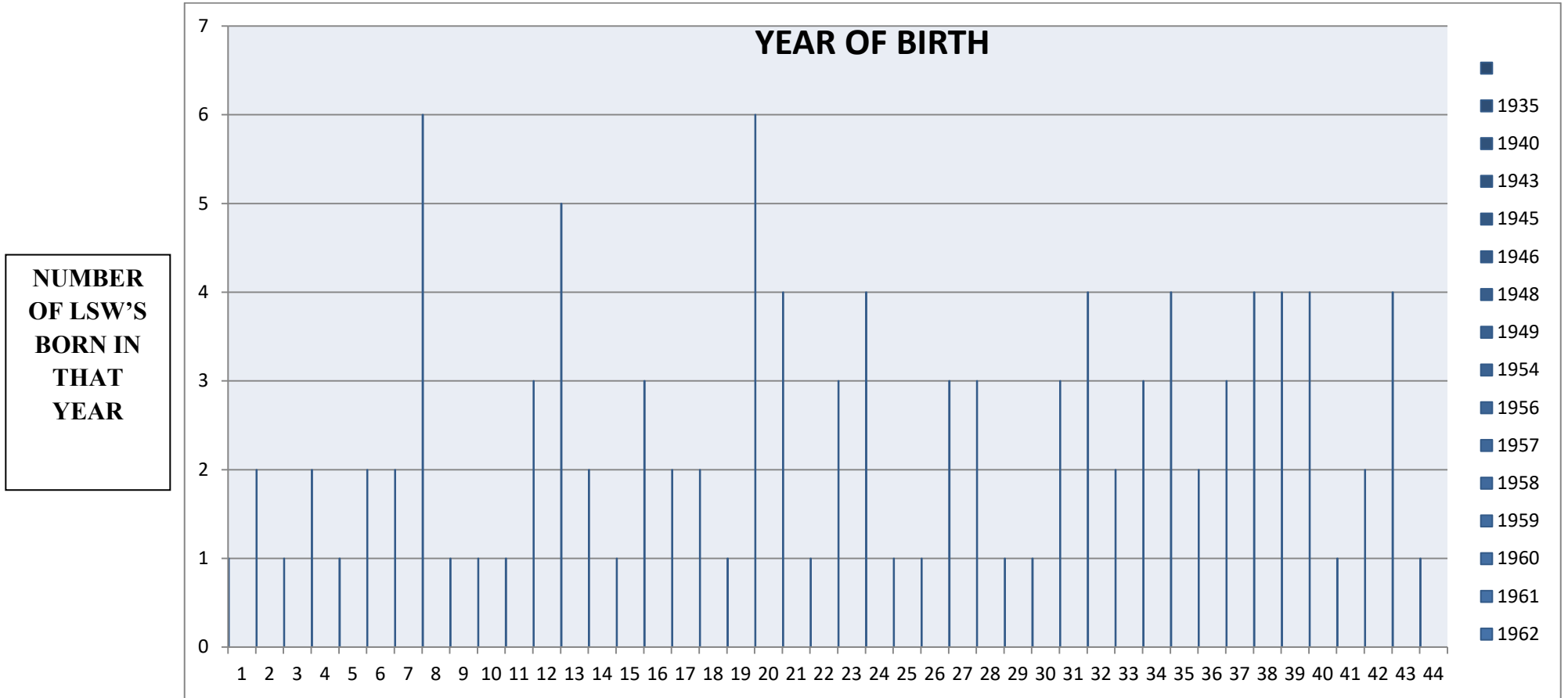


ARE YOU REQUIRED TO HAVE THE LSW IN ORDER TO BE EMPLOYED IN YOUR CURRENT POSITION?	NUMBER	PERCENTAGE
REQUIRED	39	36%
NOT-REQUIRED	68	64%



**AGE OF LSWs**

The LSW's ranged in age from 82 to 25 years old.



**PRIOR TO THIS QUESTIONNAIRE WERE YOU AWARE OF THE VIRGINIA BOARD OF SOCIAL WORK PROPOSED LEGISLATION?**

**Question #9 and #10 (listed below) asked for an open-ended response. The answers are in Appendix “K” and Appendix “L”.  
Questions #9**

If you have any opinions, feedback or comments to make about the Virginia Board of Social Work’s proposed legislation please enter them below.

**Question #10**

Most LSW’s have a Virginia address. Some LSW’s live in states that border Virginia and some live in non-border states. Please let us know if you are in Virginia, in a border state or in a non-border state and what you see as the advantages and disadvantages of having the LSW?

**To report the results of the answers to these two questions two tools were used to display content analysis information:**

**1. WordSift**

*WordSift* helps anyone easily sift through texts -- just cut and paste any text into *WordSift* and you can engage in a verbal quick-capture! The program helps to quickly identify important words that appear in the text. This function is widely available in various Tag Cloud programs on the web, but we have added the ability to mark and sort different lists of words important to educators. We have also integrated it with a few other functions, such as visualization of word thesaurus relationships (incorporating the amazing Visual Thesaurus® that we highly recommend in its own right) and a limited image-search feature. With just a click on any word in the Tag Cloud, the program displays instances of sentences in which that word is used in the text. <https://wordsift.org/about.html>

**2. Infographics**

An infographic is a popular form of content marketing that can help you simplify a complicated subject or turn an otherwise boring subject into a captivating experience. Ideally, an infographic should be visually engaging and contain a subject matter and data that is appealing to your target audience ...something that is truly ‘link worthy’ or ‘share worthy’.

## **ADVANTAGES AND DISADVANTAGES OF LSW**

There were many comments from the LSW's that reflected their pride in being identified as a professional social worker. The LSW's valued that their license distinguished them from others and communicated they held themselves to a higher professional standard. Some of their comments were:

*"...The advantages of having an LSW is the professionalization of the field...it informs others that I practice at a high standard of social work and am accountable to a larger social work entity...people know you are a licensed social worker..."*

(See Appendix K)



## **ANALYSIS OF RESULTS OF LSW STUDY**

### **WHAT WE LEARNED ABOUT VIRGINIA LSW's AS A GROUP?**

To the extent that the sample is representative of all LSW's in Virginia we have learned much about the characteristics of this population of social workers. The majority are female; MSW's who have had their LSW for over 6 years and range in age from 25 to 82 years old. They work about equally in "Exempt" and "Non-Exempt" settings. Only 10% practice exclusively in "non-clinical" social work practice. While 39% practice exclusively in "clinical social work" and another 51% practice "a mix of clinical and non-clinical social work." While the majority resides in Virginia or a contiguous state, Virginia LSW's are also located in 33 other states. The LSW's cite a pride in their credential. Feeling it distinguishes them from others in the work setting and underscores their professional identity as social workers and being committed to maintaining a higher standard of practice.

### **HOW DO LSW' FEEL ABOUT THE VBSW PROPOSED LEGISLATION:**

The majority of the LSW's were not aware of the proposed legislation. However upon learning of the text of the proposed legislation they made no comments in opposition to the legislation. Their comments were focused on being in favor of making a distinction between the Masters and Bachelors level practitioners. They wanted to not take another test, be grandfathered into the new LMSW and not made to be excessive fees to do so.

### **CONCLUSIONS FOR THE LEGISLATIVE PROCESS:**

The VSCSW Legislative Committee concludes that the population of Virginia LSW's will very likely be supportive of the VBSW proposed legislation as it moves through the General Assembly. Should we become aware of any negative testimony or comments purporting to represent the views of LSW's we now have data to present to legislators that documents overwhelming support from LSW's for this legislation. The VSCSW and the Northern Virginia members of the GWSCSW are now much better prepared for the upcoming General Assembly session.

# **APPENDIX A**

(Acquired from VBSW website on 9/3/17 <http://www.dhp.virginia.gov/social> )

## **Board of Social Work**

### **2018 Session of the General Assembly**

#### **Draft Legislation**

A BILL to amend the *Code of Virginia* by amending sections §§ 54.1-3700 and 54.1-3705, by adding authority for the Board of Social Work to license baccalaureate social workers and master's social workers, and to register persons obtaining supervised experience for licensure as a clinical social worker.

#### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 54.1-3700 and 54.1-3705 of the *Code of Virginia* be amended and reenacted as follows:**

##### **§ 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.

Baccalaureate social worker means a person, engaged in the practice of social work, who practices under the supervision of a master's social worker within an entity not otherwise exempted by provisions of § 54.1-3701 and who is engaged in a basic generalist practice to include casework management and supportive services and consultation and education.



“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.

Master’s social worker means a person, engaged in the practice of social work, who is employed by an entity not otherwise exempted by provisions of § 54.1-3701 and who is engaged in a non-clinical, generalist scope of practice of social work to include staff supervision and management.

"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.

#### **§ 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.
5. To license baccalaureate social workers, master's social workers, and clinical social workers to practice consistent with the definitions specified in § 54.1-3700 and regulations promulgated by the Board.
6. To register persons for the supervised practice of social work as required for licensure as a clinical social worker.

## APPENDIX B



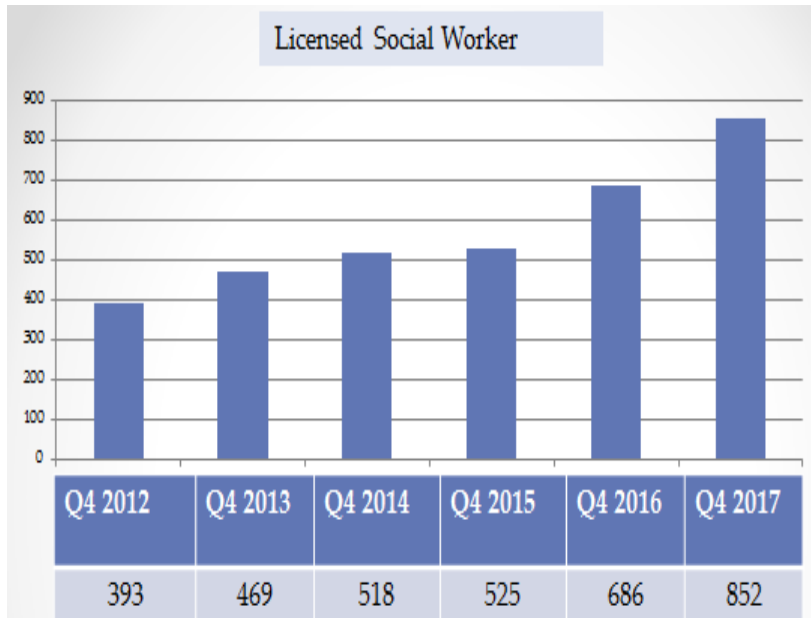
### COUNT OF CURRENT LICENSES \* FISCAL YEAR 2017, QUARTER ENDING MARCH 31st, 2017

Quarter Breakdown	
Quarter 1	July 1st - September 30th
Quarter 2	October 1st - December 31st
Quarter 3	January 1st - March 31st
Quarter 4	April 1st - June 30th

\*CURRENT LICENSES BY BOARD AND OCCUPATION AS OF THE LAST DAY OF THE QUARTER  
\*\* NEW OCCUPATION

Board	Occupation	Q4 2014	Q1 2015	Q2 2015	Q3 2015	Q4 2015	Q1 2016	Q2 2016	Q3 2016	Q4 2016	Q1 2017	Q2 2017	CURRENT Q3 2017
<b>Social Work</b>	Associate Social Worker	1	1	1	1	0	1	1	1	1	1	1	1
	Licensed Clinical Social Worker	5,814	5,903	5,986	6,104	5,781	5,948	6,060	6,170	6,358	6,458	6,558	6,684
	Licensed Social Worker	518	560	586	619	525	583	617	645	686	739	778	816
	Registered Social Worker	17	17	17	17	0	12	12	12	12	12	12	12
	Registration of Supervision										1,690	1,795	1,827
<b>Total</b>		<b>6,350</b>	<b>6,481</b>	<b>6,590</b>	<b>6,741</b>	<b>6,306</b>	<b>6,544</b>	<b>6,690</b>	<b>6,828</b>	<b>7,057</b>	<b>8,900</b>	<b>9,144</b>	<b>9,340</b>

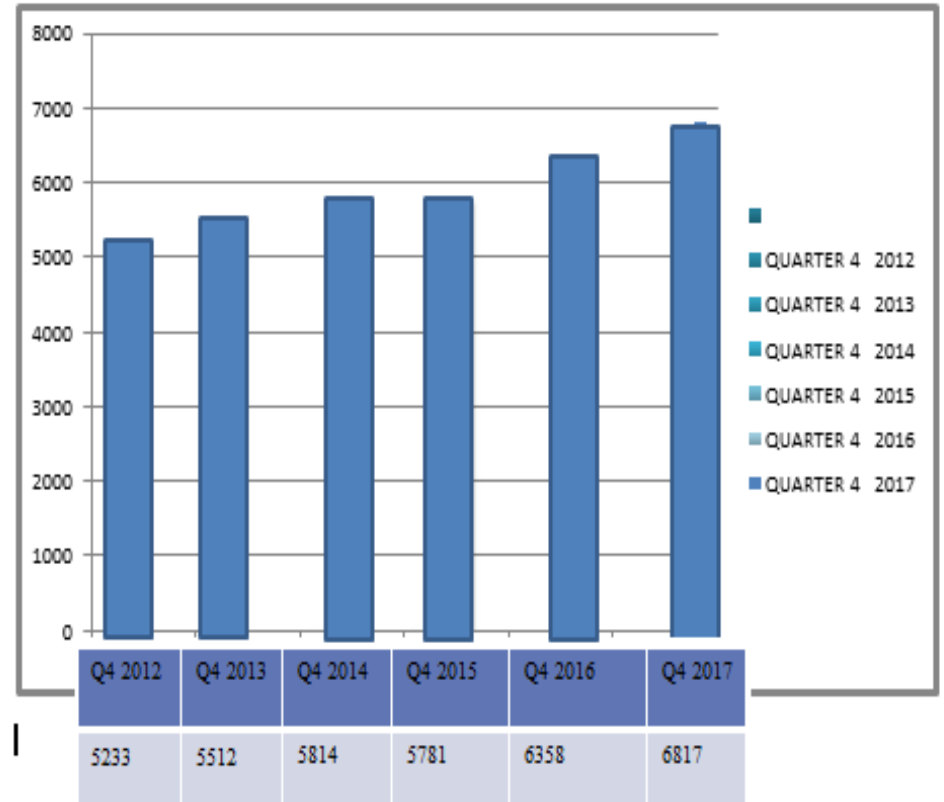
## APPENDIX B (continued)



**117% INCREASE FROM 2012 TO 2017**

2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
19%	10%	1%	31%	24%

### Licensed Clinical Social Worker



**30% INCREASE FROM 2012 TO 2017**

# APPENDIX C



*Virginia Society for Clinical Social Work  
10106-C Palace Way  
Henrico, Virginia 23238*

**July 17, 2017**

Dear Virginia LSW:

We are writing to you to ask for your participation in a brief questionnaire about Virginia Licensed Social Workers. The Virginia Board of Social Work (VBSW) has been in discussion for a few years about Mid-Level licensure and public comments have been made at several meetings on this topic. At the VBSW Board meeting on May 11, 2017 the Board voted to approve a Legislative Proposal for Mid-Level Licensure. There are a few more steps in the process and then this proposed legislation is likely to become a bill in the 2018 General Assembly. The group that is expected to be impacted most by this legislation will be persons who now hold the LSW and persons who would seek to become what is now the LSW license. The VBSW is considering dividing the LSW license into two licenses:

1. LBSW - Licensed Bachelor's Social Worker
2. LMSW- Licensed Master's Social Worker

The VBSW has discussed requiring that the Bachelor's Social Worker take the ASWB Bachelor's level exam and the Master's Social Worker take the ASWB Master's level exam. Usually when a group of professionals are likely to be impacted by proposed legislation the regulatory board receives public comments from that group. There has been no comment to date from persons holding the LSW license. The Department of Health Professions most recent quarterly report finds that there are 846 LSW's. Of those 846 we found, that for the address of record with the Department, 670 listed a Virginia address, 84 listed an address in areas contiguous to Virginia and 92 listed an address in other states. A request to the VBSW under the Virginia Freedom of Information Act for some more detailed information about LSW's found that the Board collects very little information about LSW's. We would like to learn some general information about Virginia LSW's and some specific information about your opinions regarding the proposed legislation. We have enclosed:

- A copy of the four new sentences that appear in the proposed legislation. The VBSW website has the proposed legislation at <http://www.dhp.virginia.gov/social/> (On the home page under Announcements - click on "draft legislative proposal").
- A brief questionnaire that we would like you to fill out and return to us. If you would like to fill out the questionnaire online you can go to the below URL and fill it out online:

[http://www.vscsw.org/lsw\\_questionnaire/](http://www.vscsw.org/lsw_questionnaire/)

Thank you for your assistance in helping us know more about LSW's in Virginia. If you have any questions please feel free to email or call Joseph G. Lynch LCSW, VSCSW Legislative Vice President (contact information listed below)

Joseph G. Lynch LCSW

1) Year of Birth:						
2) Sex:	<b>MALE</b>	<input type="checkbox"/>	<b>FEMALE</b>	<input type="checkbox"/>		
3) Which degree had you obtained when you received your LSW?	<b>BSW</b>	<input type="checkbox"/>	<b>MSW</b>	<input type="checkbox"/>		
4) How many years have you had your LSW?	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6+</b>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5) Would you describe your work as primarily clinical or non-clinical or a mix of both Clinical and Non-Clinical Clinical = provide direct services to clients Non-Clinical = provide staff supervision and management	<b>CLINICAL</b>					<input type="checkbox"/>
	<b>NON-CLINICAL</b>					<input type="checkbox"/>
	<b>MIX OF BOTH CLINICAL AND NON-CLINICAL</b>					<input type="checkbox"/>
In Virginia persons employed in certain work settings are exempt from the requirements of licensure. For example:						
1. Persons who render services but do not charge any fee.		2. Social work students in a field experience.				
3. Rabbis, priests, ministers or clergymen in the performance of their duties.		4. Persons employed by private business as personnel managers.				
5. Persons employed as salaried employees of the federal government, the Commonwealth, a locality, any agency funded by any such governmental entity, or a private, nonprofit organization.						
For a full explanation of Exemption see: <a href="http://law.lis.virginia.gov/vacode/title54.1/chapter37/section54.1-3701/">http://law.lis.virginia.gov/vacode/title54.1/chapter37/section54.1-3701/</a>						
6) Using the above understanding of exempt settings, would you describe your position as being in an Exempt setting or a Non-Exempt setting?	<b>EXEMPT</b>	<input type="checkbox"/>	<b>NON-EXEMPT</b>	<input type="checkbox"/>		
7) Are you required to have the LSW in order to be employed in your current position?	<b>YES</b>	<input type="checkbox"/>	<b>NO</b>	<input type="checkbox"/>		
8) Prior to this questionnaire were you aware of the Virginia Board of Social Work proposed legislation?	<b>YES</b>	<input type="checkbox"/>	<b>NO</b>	<input type="checkbox"/>		
9) If you have any opinions, feedback or comments to make about the Virginia Board of Social Work's proposed legislation please enter them below.						
10) Most LSW's have a Virginia address. Some LSW's live in states that border Virginia and some live in non-border states. Please let us know if you are in Virginia, in a border state or in a non-border state and what you see as the advantages and disadvantages of having the LSW?						

**VIRGINIA BOARD OF SOCIAL WORK**

**PROPOSED LEGISLATION FOR**

**2018 VIRGINIA GENERAL ASSEMBLY**

**ONLY THE NEW LANGUAGE TO BE ADDED**

**TO THE SOCIAL WORK LAW IS BELOW AND IS UNDERLINED**

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-3700 and 54.1-3705 of the *Code of Virginia* be amended and reenacted as follows:**

**§ 54.1-3700. Definitions.**

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

Baccalaureate social worker means a person, engaged in the practice of social work, who practices under the supervision of a master's social worker within an entity not otherwise exempted by provisions of § 54.1-3701 and who is engaged in a basic generalist practice to include casework management and supportive services and consultation and education.

Master's social worker means a person, engaged in the practice of social work, who is employed by an entity not otherwise exempted by provisions of § 54.1-3701 and who is engaged in a non-clinical, generalist scope of practice of social work to include staff supervision and management.

**§ 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:

5. To license baccalaureate social workers, master's social workers, and clinical social workers to practice consistent with the definitions specified in § 54.1-3700 and regulations promulgated by the Board.

6. To register persons for the supervised practice of social work as required for licensure as a clinical social worker.

## APPENDIX D

### GEOGRAPHICAL DISTRUBUTION OF LSW's

STATE ABBREVIATION	STATE	NUMBER OF VIRGINIA LSW'S IN THAT STATE	STATE ABBREVIATION	STATE	NUMBER OF VIRGINIA LSW'S IN THAT STATE
AK	Alaska	1	NC	North Carolina	15
AL	Alabama	3	NH	New Hampshire	1
AZ	Arizona	1	NJ	New Jersey	6
CA	California	7	NM	New Mexico	1
CO	Colorado	2	NV	Nevada	2
DC	Washington DC	15	NY	New York	15
DE	Delaware	3	OH	Ohio	4
FL	Florida	4	OK	Oklahoma	2
GA	Georgia	5	PA	Pennsylvania	7
IA	Iowa	2	SC	South Carolina	6
KS	Kansas	1	TN	Tennessee	3
KY	Kentucky	4	TX	Texas	5
LA	Louisiana	3	VA	Virginia	670
MA	Massachusetts	1	WA	Washington	2
MD	Maryland	36	WI	Wisconsin	1
MN	Minnesota	1	WV	West Virginia	11
MO	Missouri	1		American Post Office- Europe, Middle East, Africa and Canada	1
MS	Mississippi	3	AE		
			AP	American Post Office- Pacific	1
				<b>TOTAL LSW's</b>	<b>846</b>



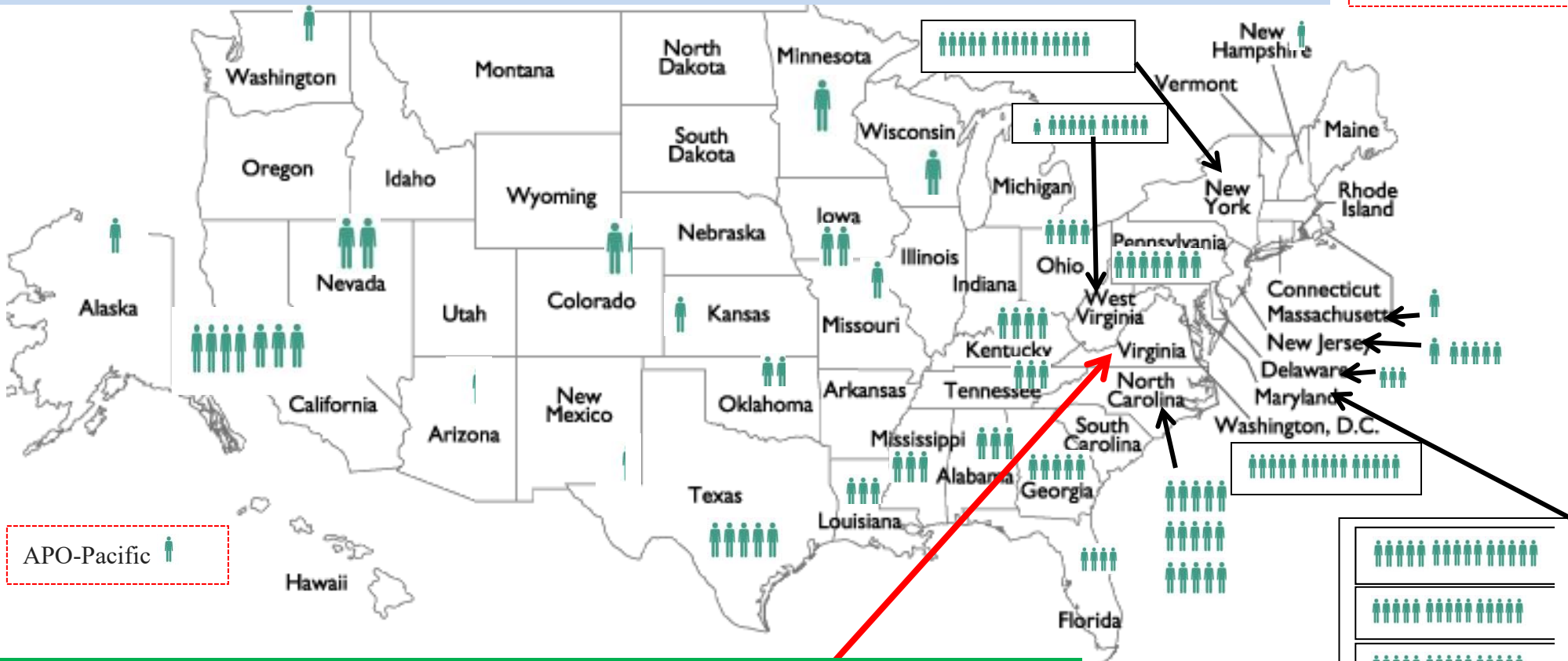
# APPENDIX E

## GEOGRAPHICAL DISTRIBUTION OF LSW'S RANK ORDERED JUNE 2017

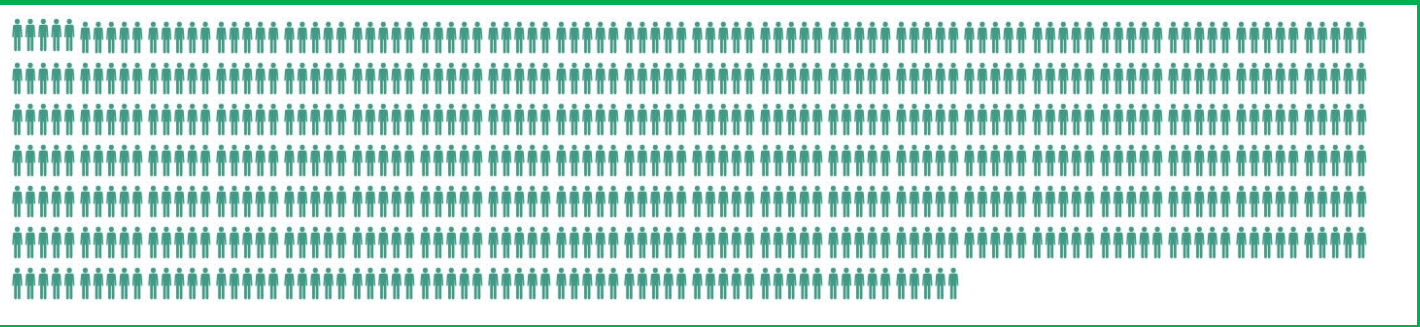
STATE	LSW's	%	STATE	LSW's	%
Virginia	670	79.2	Kansas	1	0.12
Maryland	36	4.3	Massachusetts	1	0.12
New York	15	1.77	Minnesota	1	0.12
North Carolina	15	1.77	Missouri	1	0.12
Washington DC	15	1.77	New Hampshire	1	0.12
West Virginia	11	1.3	New Mexico	1	0.12
California	7	0.83	Wisconsin	1	0.12
Pennsylvania	7	0.83	APO-EUROPE	1	0.12
Texas	5	0.83	APO- PACIFIC	1	0.12
New Jersey	6	0.7	Arkansas	0	0
South Carolina	6	0.7	Connecticut	0	0
Georgia	5	0.59	Hawaii	0	0
Florida	4	0.47	Idaho	0	0
Kentucky	4	0.47	Illinois	0	0
Ohio	4	0.47	Indiana	0	0
Alabama	3	0.35	Maine	0	0
Delaware	3	0.35	Michigan	0	0
Louisiana	3	0.35	Montana	0	0
Mississippi	3	0.35	Nebraska	0	0
Tennessee	3	0.35	North Dakota	0	0
Colorado	2	0.24	Oklahoma	2	0
Iowa	2	0.24	Oregon	0	0
Nevada	2	0.24	Rhode Island	0	0
Washington	2	0.24	South Dakota	0	0
Alaska	1	0.12	Utah	0	0
Arizona	1	0.12	Vermont	0	0
			Wyoming	0	0
			<b>TOTAL</b>	<b>846</b>	

MAP OF USA WITH DISTRIBUTION OF VIRGINIA LSW'S

APO-Europe 



APO-Pacific 



VIRGINIA LSW'S  
670= 79%

89%

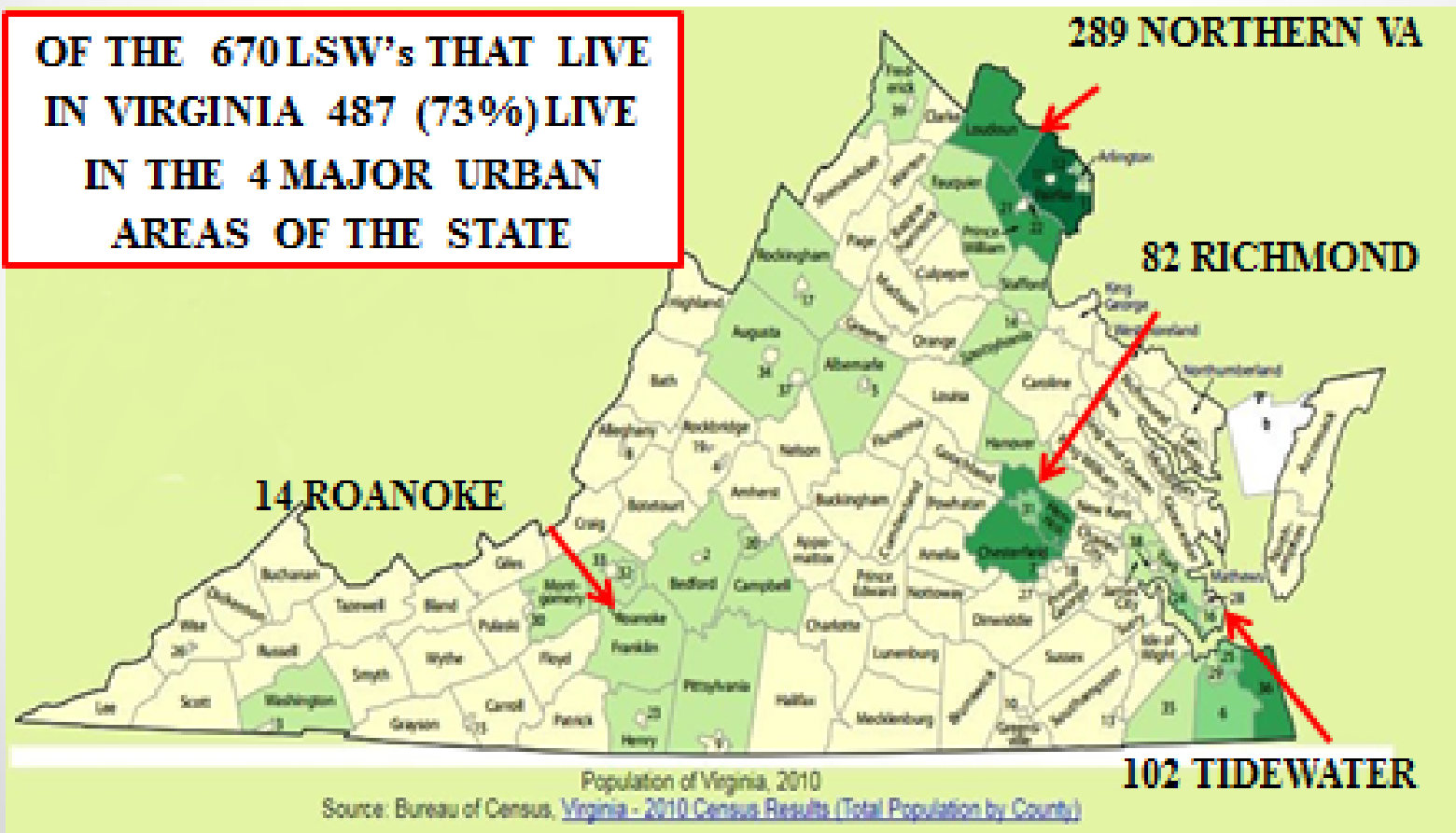
CONTIGUOUS TO VA = 10%

CONTIGUOUS STATES AND DC		
STATE	# LSW'S	%
Kentucky	4	0.47
Maryland	36	4.26
North Carolina	15	1.77
Tennessee	3	0.35
West Virginia	11	1.30
Washington DC	15	1.77
<b>TOTAL</b>	<b>84</b>	<b>10%</b>

## APPENDIX G

# DISTRIBUTION OF THE 670 LSW's THAT LIST A VIRGINIA ADDRESS

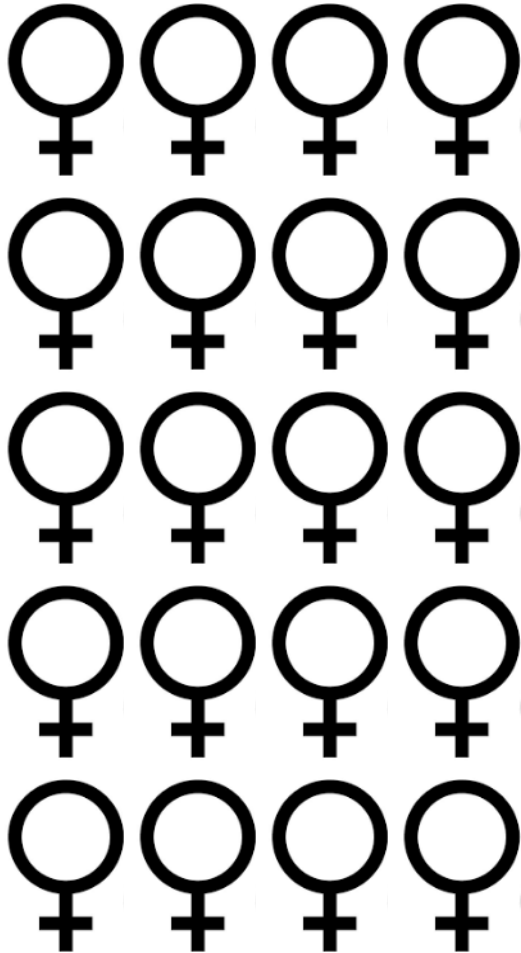
OF THE 670 LSW's THAT LIVE IN VIRGINIA 487 (73%) LIVE IN THE 4 MAJOR URBAN AREAS OF THE STATE



**APPENDIX H**

**GENDER OF LSW's**

**90% FEMALE**



**10% MALE**



# APPENDIX I

## DISTRIBUTION OF MSW'S AND BSW'S.

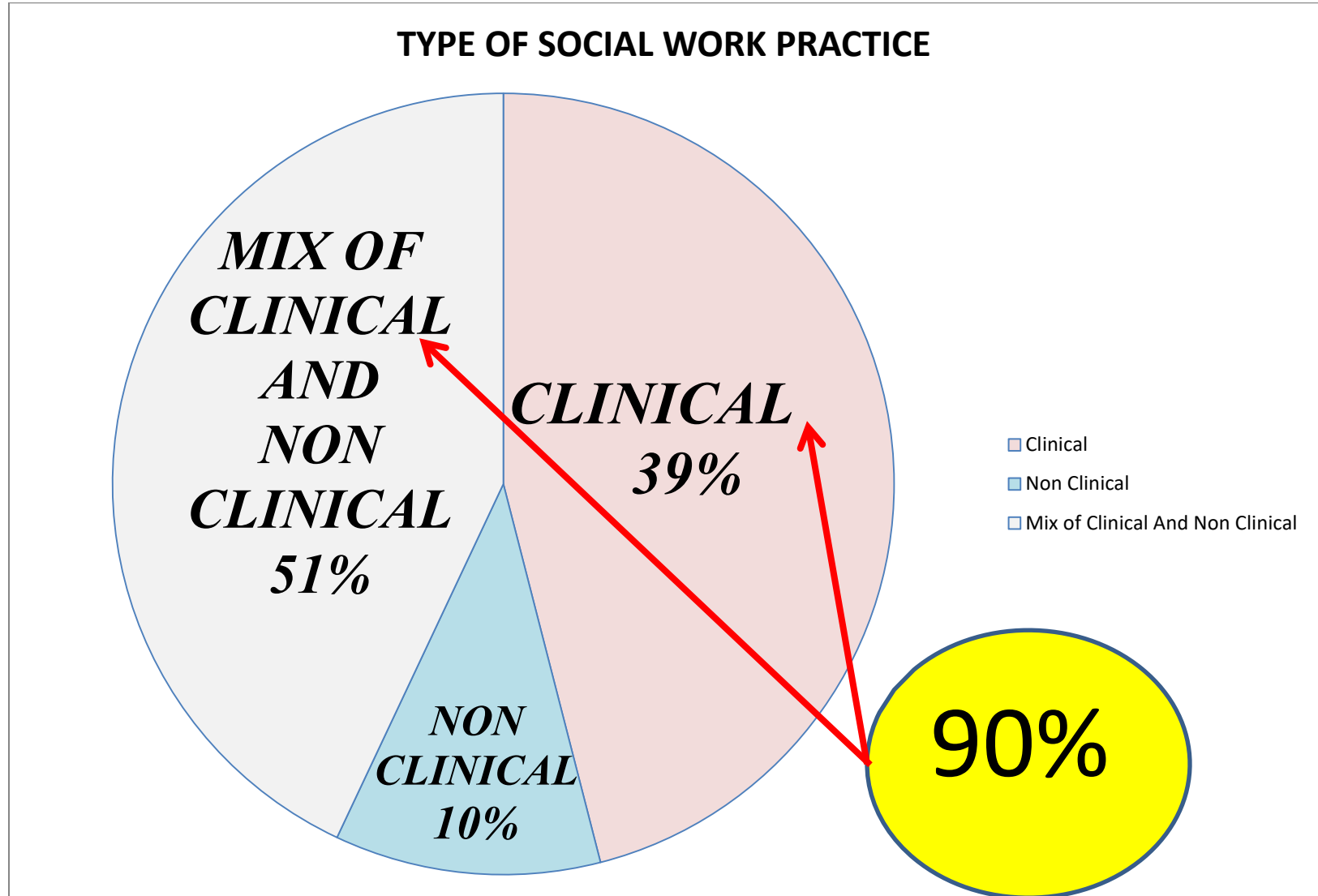
97% MSW



3% BSW



## APPENDIX J



## APPENDIX K

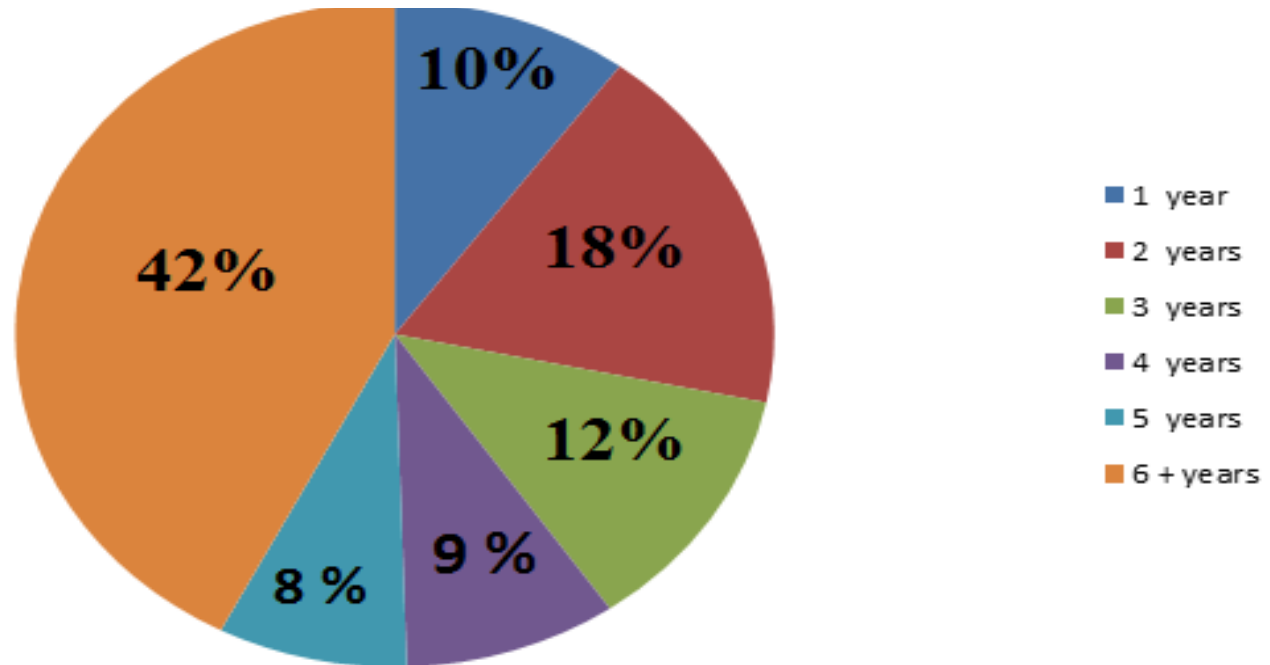
### ADVANTAGES OF LSW

Several LSW's noted one advantage is that it demonstrates commitment to professional social work practice and distinguishes the LSW from others.



## APPENDIX L

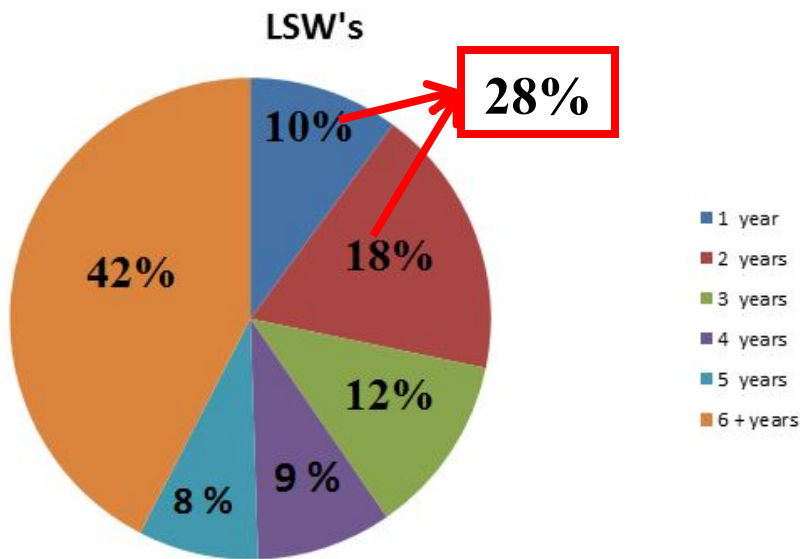
### NUMBER OF YEARS LICENSED AS AN LSW





# APPENDIX M

# CAUTIONARY NOTE

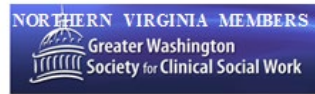


The DHP Quarterly Report ending 06/30/17 notes that there are 852 LSW's. From 2015 to 2017 there were 327 new LSW's. That group of LSW's constitutes 38% of the 852 LSW's. In the returned questionnaires there were only 28% from that group of LSW's but 42% from LSW's who had been licensed for over 6 years. So some caution should be used in the results of the study as the 2 year or less licensed LSW's are somewhat underrepresented.

***For questions or further information  
about this study please contact:  
Virginia Society for Clinical Social Work  
Joseph G. Lynch LCSW  
Legislative Vice President  
34 Emery Street  
Harrisonburg, Virginia 22801  
[lynchj@newmanavenue.com](mailto:lynchj@newmanavenue.com)  
(540) 421-4345***



AND



*Virginia Society for Clinical Social Work  
5537 Solaris Drive  
Chesterfield Virginia 23832*

**July 22 and 23, 2021**

**PUBLIC COMMENT TO THE VBSW  
(DOCUMENTS)**

The VSCSW and the Northern Virginia members of the GWSCSW express thanks to the VBSW for the opportunity to make public comment regarding three concerns:

- 1 LMSW definition in the Code- The need to change the definition of “Masters Social Worker” in the Code of Virginia
- 2 LMSW as requirement for LCSW supervisees- The need to bring Virginia into alignment with the majority of US jurisdictions that require social workers under supervision toward the ASWB clinical exam to be licensed while under such supervision.
- 3 Interconnectedness Between Unlicensed Social Workers, LBSW & LMSW, the QMHP and The Licensed Resident In Counseling

**1. LMSW DEFINITION IN THE CODE- THE NEED TO CHANGE THE DEFINITION OF “MASTERS SOCIAL WORKER” IN THE CODE OF VIRGINIA**

**Virginia Transition From LSW To LBSW AND LMSW**

At the May 11, 2017 Board meeting of The Virginia Board of Social Work (VBSW) passed a motion to accept proposed legislation recommended by the Regulatory committee. The proposed legislation would add 4 sentences to *Chapter 37 of Title 54.1 of the Code of Virginia; Social Work*. The 4 sentences are:

***§ 54.1-3700. Definitions.***

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

*Baccalaureate social worker means a person, engaged in the practice of social work, who practices under the supervision of a master’s social worker within an entity not otherwise exempted by provisions of § 54.1-3701 and who is engaged in a basic generalist practice to include casework management and supportive services and consultation and education.*

*Master’s social worker means a person, engaged in the practice of social work, who is employed by an entity not otherwise exempted by provisions of § 54.1-3701 and who is engaged in a non-clinical, generalist scope of practice of social work to include staff supervision and management.*

**§ 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:*

5. *To license baccalaureate social workers, master’s social workers, and clinical social workers to practice consistent with the definitions specified in § 54.1-3700 and regulations promulgated by the Board.*

6. To register persons for the supervised practice of social work as required for licensure as a clinical social worker.

**VSCSW Conducts LSW Study:**

In 2017 The VSCSW conducted a study sending surveys to the 846 LSW’s licensed in Virginia at that time to ascertain characteristics of this population and their opinions on the proposed legislation to convert the LSW into the LMSW and LBSW. Of the 846 LSW’s mailed the questionnaire 126 were undeliverable and 107 were completed and returned.

**RESULTS OF STUDY:**

- The overwhelming majority (97%) of person’s who returned the survey held an MSW.
  - Most held their LSW for over 6 years.
  - They work about equally in “Exempt” and” Non-Exempt” settings.
  - Only 10% practice exclusively in “non-clinical” social work practice.
  - 39% practiced exclusively in “clinical social work.”
  - 51% practice “a mix of clinical and non-clinical social work.”
  - 90% practice clinical social work either exclusively or with a mix of non-clinical practice
- (See Appendix “A”, VSCSW Study of LSW’s, October 2017, Joseph G. Lynch LCSW)

**COMMENT:**

Because Virginia allows the Behavioral Science Professionals to engage in unlicensed practice in “Exempt Settings” under § 54.1-3701. *Exemption from requirements of licensure* it creates the situation where an MSW graduate from a CSWE accredited program with a clinical concentration has the choice upon graduation to pursue the practice of clinical social work in the exempt setting or in the private independent practice setting. The definition of “Master’s Social Worker” in the new Code section may have been an attempt to protect the LCSW license. The VBSW may have intended that there not be a “back door” to clinical social work practice without acquiring the LCSW.

The VSCSW encourages the VBSW to seek to amend § 54.1-3700. *Definitions, Master’s Social Worker* to read “clinical” instead of “non clinical” in order to be consistent with the reality caused by the Virginia Exemption Statute that allows clinical social work practice without acquiring the LCSW license. The data from the VSCSW study of LSW’s also supports amending the definition to be consistent with the reality of clinical social work practice by LMSW’s.

It should be noted that the LMSW is not a “back door” to practice without a the LCSW. The definition of “Clinical social worker” in *Chapter 37 of § 54.1-3700. Definitions* “... means a social worker who, by education and experience, is professionally qualified **at the autonomous practice level** ...” . Furthermore the VBSW regulations state explicitly that the “...**LMSW may practice in exempt practice settings**...” and that “...**Only licensed clinical social workers may practice at the autonomous level**...” (See below).

**18VAC140-20-37. Licensure; general.**

LBSWs and LMSWs may practice in exempt practice settings under appropriate supervision. In accordance with § 54.1-3700 of the Code of Virginia, an LBSW shall engage in the practice of social work under the supervision of a master's social worker. Only licensed clinical social workers may practice at the autonomous level.

**2. LMSW AS REQUIREMENT FOR LCSW SUPERVISEES - THE NEED TO BRING VIRGINIA INTO ALIGNMENT WITH THE MAJORITY OF US JURISDICTIONS THAT REQUIRE SOCIAL WORKERS UNDER SUPERVISION TOWARD THE ASWB CLINICAL EXAM TO BE LICENSED WHILE UNDER SUCH SUPERVISION.**

**ASWB Information:**

The Association of Social Work Boards website data base allows the user to generate reports with specific variables selected. The VSCSW selected several reports and then put together data that provided a report that included information on 50 US states and Washington DC that have a license that requires the clinical exam and answers the question do they require licensure while under supervision toward that license. In Appendix “B” the following reports are included:

1. ASWB report -all jurisdictions- supervision- *License Required During Supervision if Different?*
2. ASWB report- US states and DC that require license during supervision.
3. ASWB Compare License Information Report- Exam requirements- US states and DC
4. Combined report of all US states and DC, exam required is Clinical, and License Required During Supervision.

The combined report shows that of the 50 US states plus DC that require the clinical exam to acquire the license 39 **(76%) do require that the supervisee be licensed during** supervision and 12 (24%) do not require that the supervisee be licensed during supervision.

**COMMENTS:**

When 76% of US jurisdictions require those under supervision toward the clinical level of licensure to have a license and Virginia is one of the 12 jurisdictions that does not have this requirement then we decrease the portability of licensure.

This is particularly significant as the 6 jurisdictions contiguous to Virginia; Kentucky, Maryland, North Carolina, Tennessee, Washington DC, and West Virginia **ALL require** the supervised MSW seeking licensure toward the ASWB Clinical Exam license to be licensed while under that supervision.

**Council Of State Governments:**

The Council of State Governments recently announced the below invitation to a meeting to discuss social work licensure and mobility:

*In collaboration with the Department of Defense, The Council of State Governments (CSG) is working with ASWB and other organizations representing social work to develop an interstate compact for licensure portability. Recognizing both the importance and complexity of social work licensure, CSG has gathered a team of leaders and experts from our nation's top professional organizations to discuss the background and importance of this project.*

This meeting highlights the need for Virginia to be aware and involved in the process of enhancing social work licensure portability across state lines. The COVID-19 pandemic has also increased our need to focus on licensure portability. Virginia has a workforce need for LCSW's. The Virginia DHP *Healthcare Workforce Data Center Report LCSW 2020* notes that 26% of the current LCSW workforce plans to retire within the next 10 years.

Each branch of military service has at least one base located in Virginia. There are a total of 27 military bases located in Virginia. Spouses of those serving in the military often seek employment in Virginia. In the May 20, 2021 presentation a LCSW military spouse currently in Hawaii but planning to move to Virginia noted that in the last 7 years she needed to acquire a license in 6 different US states in order to gain employment. This places an undue burden on military spouses who are LCSW's and want to work in Virginia. Enhancing the portability of social work licensure in Virginia would enhance the ability to meet the needs of Virginia's social work workforce and allow military spouses better access to employment opportunities in Virginia.

**COMMENTS:**

The VSCSW and the GWSCSW express support for the supervisee in social work pursuing the LCSW license be licensed as an LMSW while under supervision. This change:

- Brings Virginia into alignment with 76% of US jurisdictions that offer a license which requires the ASWB clinical exam.
- Enhances the employment opportunities for spouses of military personnel stationed at one of the 27 military bases located in Virginia.
- Enhances the portability of social work licensure for persons moving into Virginia to meet the social work Workforce needs.

- This requirement is not unduly burdensome to social workers and actually makes them more able to compete in the marketplace of employment that now includes QMHP's and Licensed Resident in Counseling who are now required to acquire a license while under supervision.

### **3. INTERCONNECTEDNESS BETWEEN UNLICENSED SOCIAL WORKERS, LBSW & LMSW, QMHP AND THE LICENSED RESIDENT IN COUNSELING**

The interconnectedness of these practitioners is a legitimate concern of the VBSW in terms of addressing the components that are of a regulatory or legal nature. As the QMHP transitioned from the DBSDS to the DHP-Board of Counseling actions were taken that disenfranchised social workers from being able to earn an income and appear to have violated the US and Virginia Constitution by violating the property rights of those social workers. Also it appears that sections of § 54.1-100. *Regulations of professions and occupations* may have been violated.

The previous DBHDS definition of QMHP specifically named “social worker”:

#### **12VAC35-105-20. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Qualified Mental Health Professional-Adult (QMHP-A)" means a person in the human services field who is trained and experienced in providing psychiatric or mental health services to individuals who have a mental illness; including (i) a doctor of medicine or osteopathy licensed in Virginia; (ii) a doctor of medicine or osteopathy, specializing in psychiatry and licensed in Virginia; (iii) an individual with a master's degree in psychology from an accredited college or university with at least one year of clinical experience; (iv) a social worker: an individual with at least a bachelor's degree in human services or related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, human services counseling or other degree deemed equivalent to those described) from an accredited college and with at least one year of clinical experience providing direct services to individuals with a diagnosis of mental illness; (v) a person with at least a bachelor's degree from an accredited college in an unrelated field that includes at least 15 semester credits (or equivalent) in a human services field and who has at least three years of clinical experience; (vi) a Certified Psychiatric Rehabilitation Provider (CPRP) registered with the United States Psychiatric Rehabilitation Association (USPRA); (vii) a registered nurse licensed in Virginia with at least one year of clinical experience; or (viii) any other licensed mental health professional.

In the process of transferring the primary responsibility for registration of the QMHP to the Board of Counseling the definition of QMHP eliminated the specific naming of “social worker” (See definitions below).

"Qualified mental health professional" or "QMHP" includes qualified mental health professionals-adult and qualified mental health professionals-child.

"Qualified mental health professional-adult" or "QMHP-A" means a qualified mental health professional who provides collaborative mental health services for adults. A qualified mental health professional-adult shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services.

"Qualified mental health professional-child" or "QMHP-C" means a person who by education and experience is professionally qualified and registered by the board to provide collaborative mental health services for children and adolescents up to 22 years of age. A qualified mental health professional-child shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services.

*Regulations Governing the Registration of Qualified Mental Health Professionals, Virginia Board of Counseling, Title of Regulations: 18 VAC 115-80-10 et seq., Statutory Authority: §§ 54.1-2400 and Chapter 35 of Title 54.1 of the Code of Virginia, Revised Date: October 29, 2020*

Social Workers who hold the LBSW or the LMSW license have met the criteria for the highest level of professional regulation “*Licensure*” and should not be required to acquire the lower level of regulation of “*Registration*” to deliver services which are within their scope of practice under their license. The Board of Counseling actions to eliminate specific naming of social worker, licensed or not licensed in conjunction with the DMAS requirement that specifically requires the title “QMHP” for billing purposes have infringed on the property rights guaranteed by the US and Virginia Constitutions and appear to have violated § 54.1-100. *Regulations of professions and occupations* (See below)

Code of Virginia

Title 54.1. Professions and Occupations Chapter 1. General

Provisions

§ 54.1-100. Regulations of professions and 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 (i) it is clearly found that such abridgment is necessary for the protection or preservation of the health, safety, and welfare of the public and (ii) any such abridgment is no greater than necessary to protect or preserve the public health, safety, and welfare. No regulation shall be imposed upon any profession or occupation except for the exclusive purpose of protecting the public interest when:

1. The unregulated practice of the profession or occupation can harm or 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 and 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.

No regulation of a profession or occupation shall conflict with the Constitution of the United States, the Constitution of Virginia, the laws of the United States, or the laws of the Commonwealth of Virginia. Periodically and at least annually, all agencies regulating a profession or occupation shall review such regulations to ensure that no conflict exists. 1979, c. 408, § 54-1.17; 1988, c. 765; 2016, c. 467.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

The DBHDS, DHP and DMAS are all under the Secretary of Human Resources. The three Departments have collectively contributed to regulatory activity that has had a negative economic impact on social workers and appears to have abridged “...*The right of every person to engage in any lawful profession, trade, or occupation of his choice...*” and that right “... *is clearly protected by both the Constitution of the United States and the Constitution of the Commonwealth of Virginia.*”

The title “social worker” is a protected title under § 54.1-3709. *Unlawful designation as social worker* (See below). This would allow DMAS, DHP and DBHDS to specifically add the name “social worker” as a provider that can be paid for delivering the services. The LBSW and LMSW have



already been vetted by the Board of Social Work and there is no need for the Board of Counseling to also review the qualifications of Licensed persons in order to be “registered” as a QMHP.

*§ 54.1-3709. 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.*

The VBSW has a responsibility to advocate for the rights of social workers in this context and to seek for the Director of the Department of Health Professions to seek the assistance of the Secretary of Human Resources to find a resolution to this apparent infringement on the rights of social workers.

I appreciate the opportunity to present comments to the VBSW.

Joseph G. Lynch LCSW  
Legislative Vice President VSCSW

#### **APPENDIX A**

VSCSW LSW Study 2017 PowerPoint slides <https://vscsw.org/wp-content/uploads/2018/06/VSCSW-LSW-STUDY-October-7-2017.pdf>

#### **APPENDIX B**

DHP Healthcare Workforce Data Center Report LCSW 2020  
<http://www.dhp.virginia.gov/PublicResources/HealthcareWorkforceDataCenter/ProfessionReports/>

#### **APPENDIX C**

Military Bases <https://militarybases.com/virginia/>

- ❖ Definition in regulations of **clinical social work 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 psychosocial interventions, psychotherapy, and counseling for mental disorders, substance abuse, marriage and family dysfunction, and problems caused by social and psychological stress or health impairment.
- ❖ The Board previously had the LSW, a non-clinical license, which was separated in the Code into the LBSW, for individuals with a Bachelor's level education, and an LMSW for individuals with a Master's level education. Although there may be some components of clinical social work in all levels of practice, these licenses are not clinical as defined in the regulations.
- ❖ Board members recently recognized the need to license individuals who may be providing clinical services, as defined, but are not licensed due to exemptions from licensure in the Code.

	<b>LBSW</b> non-clinical non-autonomous	<b>LMSW</b> non-clinical	<b>RESIDENT IN SOCIAL WORK</b> clinical non-autonomous
<b>Education</b>	Bachelor's degree	Master's degree (macro)	Master's degree (micro)
<b>Practice Supervision</b> (post-licensure)	By LMSW, Resident, or LCSW	n/a	By LCSW (at least 1 hour of supervision per 40 hours of practice)
<b>Scope of Practice</b>			
Research	√	√	√
Advocacy	√	√	√
Planning and Community Organization	√	√	√
Development, implementation, and administration of policies, programs and activities	√	√	√
Casework management and support services	√	√	√
Educational counseling	√	√	√
Assessments	√ (not at diagnosis level)	X	√ (under supervision of an LCSW)
Treatment planning, implementation, and evaluation	X	X	√ (under supervision of an LCSW)
Diagnosing	X	X	√ (under supervision of an LCSW)
Therapy	X	X	√ (under supervision of an LCSW)
Lead therapy groups	X	X	√ (under supervision of an LCSW)

# Chapter 37 of Title 54.1 of the Code of Virginia

## Social Work

### Table of Contents

Chapter 37 of Title 54.1 of the Code of Virginia.....	1
Social Work .....	1
Article 1. Social Work. ....	2
§ 54.1-3700. Definitions. ....	2
§ 54.1-3701. Exemption from requirements of licensure. ....	3
§ 54.1-3702. Administration or prescription of drugs not permitted. ....	4
§ 54.1-3703. Board of Social Work; members. ....	4
§ 54.1-3704. Nominations.....	4
§ 54.1-3705. Specific powers and duties of the Board. ....	5
§ 54.1-3706. License required. ....	5
§ 54.1-3707. Licenses continued. ....	5
§ 54.1-3707.1. Educational requirements. ....	5
§ 54.1-3708. Continuing education requirements. ....	6
§ 54.1-3709. Unlawful designation as social worker.....	6
Article 2. Music Therapy. ....	7
§ 54.1-3709.1. Definitions. ....	7
§ 54.1-3709.2. Music therapy; licensure.....	7
§ 54.1-3709.3. Advisory Board on Music Therapy; membership; terms. ....	8

## **Article 1. Social Work.**

### **§ 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.

"Baccalaureate social worker" means a person who engages in the practice of social work under the supervision of a master's social worker and provides basic generalist services, including casework management and supportive services and consultation and education.

"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.

"Master's social worker" means a person who engages in the practice of social work and provides non-clinical, generalist services, including staff supervision and management.

"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; 2018, c. [451](#).

#### **§ 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.
5. To license baccalaureate social workers, master's social workers, and clinical social workers to practice consistent with the requirements of the chapter and regulations of the Board.
6. To ~~register~~ license persons proposing to obtain supervised post-degree experience in the practice of social work required by the Board for licensure as a clinical social worker.
7. To pursue the establishment of reciprocal agreements with jurisdictions that are contiguous with the Commonwealth for the licensure of baccalaureate social workers, master's social workers, and clinical social workers. Reciprocal agreements shall require that a person hold a comparable, current, unrestricted license in the other jurisdiction and that no grounds exist for denial based on the Code of Virginia and regulations of the Board.

1976, c. 608, §§ 54-929, 54-931; 1983, c. 115; 1986, cc. 64, 100, 464; 1988, c. 765; 1994, c. [778](#); 2018, c. [451](#); 2020, c. [617](#).

**§ 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.)

**§ 54.1-3707.1. Educational requirements.**

The Board shall accept proof of the successful completion of the following as evidence of the satisfaction of the educational requirements for licensure as a clinical social worker: (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 non-clinical 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. For the purposes of this section, "clinical course of study" means graduate coursework 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 clinical practicum that focuses on diagnostic, prevention, and treatment services.

(2013, c. [533](#).)

#### **§ 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. 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.)

## **Article 2. Music Therapy.**

### **§ 54.1-3709.1. Definitions.**

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

"Music therapist" means a person who has (i) completed a bachelor's degree or higher in music therapy, or its equivalent; (ii) satisfied the requirements for licensure set forth in regulations adopted by the Board pursuant to § [54.1-3709.2](#); and (iii) been issued a license for the independent practice of music therapy by the Board.

"Music therapy" means the clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship through an individualized music therapy treatment plan for the client that identifies the goals, objectives, and potential strategies of the music therapy services appropriate for the client using music therapy interventions, which may include music improvisation, receptive music listening, songwriting, lyric discussion, music and imagery, music performance, learning through music, and movement to music. "Music therapy" does not include the screening, diagnosis, or assessment of any physical, mental, or communication disorder.

2020, cc. [103](#), [233](#).

### **§ 54.1-3709.2. Music therapy; licensure.**

A. The Board shall adopt regulations governing the practice of music therapy, upon consultation with the Advisory Board on Music Therapy established in § [54.1-3709.3](#). The regulations shall (i) set forth the educational, clinical training, and examination requirements for licensure to practice music therapy; (ii) provide for appropriate application and renewal fees; and (iii) include requirements for licensure renewal and continuing education. In developing such regulations, the Board shall consider requirements for board certification offered by the Certification Board for Music Therapists or any successor organization.

B. No person shall engage in the practice of music therapy or hold himself out or otherwise represent himself as a music therapist unless he is licensed by the Board.

C. Nothing in this section shall prohibit (i) the practice of music therapy by a student pursuing a course of study in music therapy if such practice constitutes part of the student's course of study and is adequately supervised or (ii) a licensed health care provider, other professional registered, certified, or licensed in the Commonwealth, or any person whose training and national certification attests to his preparation and ability to practice his certified profession or occupation from engaging in the full scope of his practice, including the use of music incidental to his practice, provided that he does not represent himself as a music therapist.

2020, cc. [103](#), [233](#).

**§ 54.1-3709.3. Advisory Board on Music Therapy; membership; terms.**

A. The Advisory Board on Music Therapy (Advisory Board) is hereby established to assist the Board in formulating regulations related to the practice of music therapy. The Advisory Board shall also assist in such other matters relating to the practice of music therapy as the Board may require.

B. The Advisory Board shall have a total membership of five nonlegislative citizen members to be appointed by the Governor as follows: three members shall be licensed music therapists, one member shall be a licensed health care provider other than a music therapist, and one member shall be a citizen at large.

C. After the initial staggering of terms, members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

2020, cc. [103](#), [233](#).

- ❖ Purely macro MSWs would not need to pursue licensure, unless they wanted to and wanted to perform some clinical work under supervision.
- ❖ Many jurisdictions (not DC or Maryland) do not specify a clinical track for the LCSW. They require a master's degree in social work from an accredited body and passage of the ASWB Master's Exam to obtain the LMSW license. They must have this license to obtain supervision for the LCSW; however, they only need to complete the supervision and pass the clinical exam for licensure and there is no requirement for a clinical course of study. It is assumed that macro individuals will not pursue licensure, but they can.
- ❖ It has been the will of this Board in the past to require a clinical course of study. As such, if that remains the will of the Board, under this scenario, if an LMSW wants to register for clinical supervision to pursue the LCSW, then they would have to show proof of completing a clinical course of study before the Board would approve the initial registration.

	<b><u>LBSW</u> non-clinical non-autonomous</b>	<b><u>LMSW (macro or micro)</u> Non-autonomous, clinical</b>	<b><u>LMSW, RESIDENT IN SOCIAL WORK</u> clinical non-autonomous</b>
<b>Education</b>	Minimum of Bachelor's degree by accredited body	Minimum of Master's degree in Social Work from accredited body	Master's degree, doctoral degree in social work from accredited body with a clinical course of study
<b>Practice Supervision (post-licensure)</b>	By LMSW, LMSW-Resident in Social Work, or LCSW	LCSW for clinical work; administrative supervision within employment setting otherwise. They could remain an LMSW forever.	By LCSW (at least 1 hour of supervision per 40 hours of practice)
<b>Scope of Practice</b>			
Research	√	√	√
Advocacy	√	√	√
Planning and Community Organization	√	√	√
Development, implementation, and administration of policies, programs and activities	√	√	√
Casework management and support services	√	√	√
Educational counseling	√	√	√
Assessments	√ (not at diagnosis level)	X	√ (under supervision of an LCSW)
Treatment planning, implementation, and evaluation	X	X	√ (under supervision of an LCSW)
Diagnosing	X	X	√ (under supervision of an LCSW)
Therapy	X	X	√ (under supervision of an LCSW)
Lead therapy groups	X	X	√ (under supervision of an LCSW)

# Chapter 37 of Title 54.1 of the Code of Virginia

## Social Work

### Table of Contents

Chapter 37 of Title 54.1 of the Code of Virginia.....	1
Social Work .....	1
Article 1. Social Work. ....	2
§ 54.1-3700. Definitions. ....	2
§ 54.1-3701. Exemption from requirements of licensure. ....	3
§ 54.1-3702. Administration or prescription of drugs not permitted. ....	4
§ 54.1-3703. Board of Social Work; members. ....	4
§ 54.1-3704. Nominations.....	4
§ 54.1-3705. Specific powers and duties of the Board. ....	5
§ 54.1-3706. License required. ....	5
§ 54.1-3707. Licenses continued. ....	5
§ 54.1-3707.1. Educational requirements. ....	5
§ 54.1-3708. Continuing education requirements. ....	6
§ 54.1-3709. Unlawful designation as social worker.....	6
Article 2. Music Therapy. ....	7
§ 54.1-3709.1. Definitions. ....	7
§ 54.1-3709.2. Music therapy; licensure.....	7
§ 54.1-3709.3. Advisory Board on Music Therapy; membership; terms. ....	8

## Article 1. Social Work.

### § 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.

"Baccalaureate social worker" means a person who engages in the practice of social work under the supervision of a master's social worker and provides basic generalist services, including casework management and supportive services and consultation and education.

"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.

"Master's social worker" means a person who engages in the practice of non-autonomous social work and may provides ~~non-clinical, generalist services, including staff~~ under supervision and management.

"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; 2018, c. [451](#).

#### **§ 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.
5. To license baccalaureate social workers, master's social workers, and clinical social workers to practice consistent with the requirements of the chapter and regulations of the Board.
6. To register ~~persons~~ licensed master's social workers proposing to obtain supervised post-degree experience in the practice of social work required by the Board for licensure as a clinical social worker.
7. To pursue the establishment of reciprocal agreements with jurisdictions that are contiguous with the Commonwealth for the licensure of baccalaureate social workers, master's social workers, and clinical social workers. Reciprocal agreements shall require that a person hold a comparable, current, unrestricted license in the other jurisdiction and that no grounds exist for denial based on the Code of Virginia and regulations of the Board.

1976, c. 608, §§ 54-929, 54-931; 1983, c. 115; 1986, cc. 64, 100, 464; 1988, c. 765; 1994, c. [778](#); 2018, c. [451](#); 2020, c. [617](#).

### **§ 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.)

### **§ 54.1-3707.1. Educational requirements.**



The Board shall accept proof of the successful completion of the following as evidence of the satisfaction of the educational requirements for licensure as a clinical social worker: (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 non-clinical 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. For the purposes of this section, "clinical course of study" means graduate coursework 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 clinical practicum that focuses on diagnostic, prevention, and treatment services.

(2013, c. [533](#).)

#### **§ 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. 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.)

## **Article 2. Music Therapy.**

### **§ 54.1-3709.1. Definitions.**

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

"Music therapist" means a person who has (i) completed a bachelor's degree or higher in music therapy, or its equivalent; (ii) satisfied the requirements for licensure set forth in regulations adopted by the Board pursuant to § [54.1-3709.2](#); and (iii) been issued a license for the independent practice of music therapy by the Board.

"Music therapy" means the clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship through an individualized music therapy treatment plan for the client that identifies the goals, objectives, and potential strategies of the music therapy services appropriate for the client using music therapy interventions, which may include music improvisation, receptive music listening, songwriting, lyric discussion, music and imagery, music performance, learning through music, and movement to music. "Music therapy" does not include the screening, diagnosis, or assessment of any physical, mental, or communication disorder.

2020, cc. [103](#), [233](#).

### **§ 54.1-3709.2. Music therapy; licensure.**

A. The Board shall adopt regulations governing the practice of music therapy, upon consultation with the Advisory Board on Music Therapy established in § [54.1-3709.3](#). The regulations shall (i) set forth the educational, clinical training, and examination requirements for licensure to practice music therapy; (ii) provide for appropriate application and renewal fees; and (iii) include requirements for licensure renewal and continuing education. In developing such regulations, the Board shall consider requirements for board certification offered by the Certification Board for Music Therapists or any successor organization.

B. No person shall engage in the practice of music therapy or hold himself out or otherwise represent himself as a music therapist unless he is licensed by the Board.

C. Nothing in this section shall prohibit (i) the practice of music therapy by a student pursuing a course of study in music therapy if such practice constitutes part of the student's course of study and is adequately supervised or (ii) a licensed health care provider, other professional registered, certified, or licensed in the Commonwealth, or any person whose training and national certification attests to his preparation and ability to practice his certified profession or occupation from engaging in the full scope of his practice, including the use of music incidental to his practice, provided that he does not represent himself as a music therapist.

2020, cc. [103](#), [233](#).

**§ 54.1-3709.3. Advisory Board on Music Therapy; membership; terms.**

A. The Advisory Board on Music Therapy (Advisory Board) is hereby established to assist the Board in formulating regulations related to the practice of music therapy. The Advisory Board shall also assist in such other matters relating to the practice of music therapy as the Board may require.

B. The Advisory Board shall have a total membership of five nonlegislative citizen members to be appointed by the Governor as follows: three members shall be licensed music therapists, one member shall be a licensed health care provider other than a music therapist, and one member shall be a citizen at large.

C. After the initial staggering of terms, members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

2020, cc. [103](#), [233](#).

## MEMORANDUM

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To: Virginia Board of Social Work  
John Salay, Regulatory Committee Chairperson

From: Association of Social Work Boards  
Cara Sanner, Regulatory Support Services Coordinator

Re: LMSW scope of practice, license/exam requirements to start clinical supervision

Date: March 1, 2021

CC: Dolores Paulson, Board Chairperson  
Jaime Hoyle, Executive Director

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This memo follows up on my conversation last month with Mr. Salay. I offered to provide further information to assist the Regulatory Committee's discussions regarding a requirement for the master's license, and consequently the Masters exam, for individuals seeking to obtain clinical supervision towards the clinical license. I hope this memo covers the topics we discussed. If you have any questions or if ASWB can provide further assistance, please do not hesitate to let me know.

### **Best practice as suggested by the ASWB model law**

As you know, ASWB publishes the Model Social Work Practice Act ([model law](#)) which informs ASWB's work with member jurisdictions and support of their regulatory and legislative initiatives. First adopted in 1997, the Model Law reflects best practices for social work regulation. It is regularly reviewed and affirmed by all ASWB member jurisdictions during the association's annual business meeting. The model law was developed as a guide to help member boards and their legislative partners create and revise regulations. Part of the model law's purpose is to increase consistency of regulation from jurisdiction to jurisdiction, not to dictate specific language for any member board. ASWB supports the individuality of each state to determine regulatory language that best meets the needs of its consumers and the board's mandate to protect the public.

The changes being explored by the Regulatory Committee are consistent with the regulation of social work practice as suggested by the model law. With these changes, the Board would be strengthening its critical public protection mandate as directed by its mission and the State of Virginia. Requiring that individuals take the master's exam and obtain the Masters license, ensures that they can demonstrate minimum competence before they begin working with clients. Further, it brings that individual under the clear authority of the Board, where there are structures in place for the receipt, investigation and adjudication of any complaints or concerns of social worker misconduct.

### **State licensing frameworks and requirements for the master's license to begin clinical supervision**

A review of ASWB's 53 U.S. member jurisdictions was conducted including the 50 states, the District of Columbia, and the U.S. territories of the Virgin Islands and Guam. The Commonwealth of the Northern Mariana Islands was excluded because the status of their licensing program is uncertain at this time. An overview of state licensing frameworks is included to provide further context to this issue.

ASWB found that 29 jurisdictions require the masters license, including a passing score on the master’s exam, prior to obtaining supervised clinical practice experience, and 24 do not. When evaluating states with the same licensing framework as Virginia, the findings were still nearly evenly split with 14 states requiring master’s licensure (and the Masters exam) and 11 states without the requirement. The table below identifies each state’s licensing framework and requirements for this issue.

Every jurisdiction regulates social work practice using at minimum a clinical license: 40 states regulate using a bachelors, masters and clinical license; eight jurisdictions utilize a masters and clinical license; three states exclusively regulate social work with a clinical license; and two states have a clinical and baccalaureate license. Masters practice may be regulated in one of three ways by state regulatory bodies: the masters license solely regulates advanced macro practice, the masters license is intended for new MSW graduates, or the state has both categories of license and the scopes are regulated separately. Thirteen states regulate master’s practice with separate licenses for masters and macro practice, three states exclusively utilize an advanced practice macro license and the remaining 33 states exclusively use a masters license which would include both practice areas. The model law suggests a licensing framework of a bachelors, masters and clinical license; advanced macro practice is considered to be part of the master’s license scope of practice. Attachment A “Social Work Regulation in North America” provides more information about the specific states within each of these licensing frameworks described.

Jurisdiction	Licensing framework	Masters license / exam required	Masters license / exam NOT required
Alabama	Clinical, masters, bachelors	X	
Alaska	Clinical, masters, bachelors		X
Arizona	Clinical, masters, bachelors		X
Arkansas	Clinical, masters, bachelors	X	
California	Clinical only		X
Colorado	Clinical and masters only		X
Connecticut	Clinical and masters only		X
Delaware	Clinical, masters, bachelors		X
District of Columbia	Clinical, macro, masters, bachelors	X	
Florida	Clinical and macro only		X
Georgia	Clinical and masters only	X	
Guam	Clinical, masters, bachelors		X
Hawaii	Clinical, masters, bachelors		X
Idaho	Clinical, masters, bachelors	X	
Illinois	Clinical and masters only		X
Indiana	Clinical, masters, bachelors	X	
Iowa	Clinical, masters, bachelors	X	
Kansas	Clinical, masters, bachelors	X	
Kentucky	Clinical, masters, bachelors	X	
Louisiana	Clinical, masters, bachelors	X	
Maine	Clinical, masters, bachelors	X	
Maryland	Clinical, macro, masters, bachelors	X	

Jurisdiction	Licensing framework	Masters license / exam required	Masters license / exam NOT required
Massachusetts	Clinical, macro, masters, bachelors	X	
Michigan	Clinical, macro, bachelors		X
Minnesota	Clinical, masters, bachelors	X	
Mississippi	Clinical, masters, bachelors	X	
Missouri	Clinical, macro, masters, bachelors	X	
Montana	Clinical, masters, bachelors		X
Nebraska	Clinical, macro, masters, bachelors		X
Nevada	Clinical, macro, bachelors		X
New Hampshire	Clinical only		X
New Jersey	Clinical, masters, bachelors	X	
New Mexico	Clinical, macro, masters, bachelors	X	
New York	Clinical and masters only	X	
North Carolina	Clinical, macro, masters, bachelors		X
North Dakota	Clinical, masters, bachelors		X
Ohio	Clinical and masters only	X	
Oklahoma*	Clinical, macro, masters, bachelors	X	
Oregon	Clinical, masters, bachelors		X
Pennsylvania	Clinical, masters, bachelors	X	
Rhode Island	Clinical only	X	
South Carolina	Clinical, macro, masters, bachelors	X	
South Dakota	Clinical, masters, bachelors	X	
Tennessee	Clinical, macro, masters, bachelors	X	
Texas	Clinical, macro, masters, bachelors	X	
Utah	Clinical, masters, bachelors		X
Vermont	clinical and masters only		X
Virgin Islands	Clinical, masters, bachelors		X
Virginia	Clinical, masters, bachelors		X
Washington	Clinical and masters only		X
West Virginia	Clinical, macro, masters, bachelors	X	
Wisconsin	Clinical, macro, masters, bachelors	X	
Wyoming	Clinical and bachelors		X

*\*Masters or Advanced Generalist exam is required*

## **2. Scope of practice for non-clinical MSWs (i.e., those not seeking / intending to seek the clinical license)**

Differentiating activities reserved for a specific category of license can be difficult. Oftentimes a licensing authority may use a single definition for social work or overlapping scope of practice definitions for each category of license regulated. In the most general of terms, Bachelors practice is the entry level of social work practice, the

activities of psychotherapy and diagnosis are reserved to clinical practice (and masters social workers under clinical supervision), and master's practice is considered generalist / advanced generalist practice and covers all activities in between. I have included scope of practice definitions as suggested by the model law further below. Additionally, I have included examples from several states that more clearly differentiates scopes of practice for clinical and master's licensees. Alabama utilizes overlapping scope definitions, but supervision regulations clearly outline masters practice activities. Montana and Texas broadly define social work practice and then further identifies which activities are applicable to masters and clinical licensees. Nevada has active legislation to add a masters license and is working to differentiate activities within the categories of practice regulated; the draft matrix currently under development is included as Attachment B to this memo.

## Alabama

### AAC 850-X-03 Supervision

#### *(2) Licensed Master Social Worker Non-Clinical Social Work.*

*After receiving a license from the board to practice as a licensed master social worker, the licensed master social worker must obtain at least 96 hours of supervision according to the requirements of this section.*

*(d) Supervisees are required to meet the satisfaction of the supervisor, practice competently and ethically according to professional social work knowledge, skills, and values; receive supervision in the following content areas but not limited to:*

- (1) development of professional values and responsibilities;*
- (2) practice skills;*
- (3) authorized scope of practice;*
- (4) ensuring continuing competence; and*
- (5) ethical standards of practice;*
- (6) human development and behavior in the social environment*
- (7) effects of diversity and personal biases*
- (8) Assessment in Social Work Practice*
- (9) Social Work Practice with Individuals, Couples, Families, Groups and Communities*
- (10) Interpersonal Communication*
- (11) Professional Social Worker/Client Relationship*
- (12) Professional Values and Ethics*
- (13) Supervision in Social Work*
- (14) Social Work Administration*
- (15) Practice Evaluation and the Utilization of Research*
- (16) Service Delivery*
- (17) Case Analysis*

### AAC Chapter 850-X-2-.01 Definitions of Terms

*(11) Practice of Master's Social Work. Subject to the limitations set forth in Section 34-30-22(b), 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, intervention, and evaluation, Case Management, information and referral, Supervision, Consultation, education, research, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities. The practice of Master's Social Work may include the practices reserved to Clinical Social Workers under Supervision as provided in this Act.*

*AAC Chapter 850-X-2-.01 Definitions of Terms*

*(12) Practice of Clinical Social Work. Subject to the limitations set forth in Section 34-30-22(c), 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.*

Montana

*MCA 37-22-308. Licensed master's social worker requirements*

*(3) A licensed master's social worker:*

*(b) may engage in social work activities as provided in 37-22-102(5)(b) through (5)(g);*

*MCA 37-22-102. Definitions. As used in this chapter, the following definitions apply:*

*(5) "Social work" means the professional practice directed toward helping people achieve more adequate, satisfying, and productive social adjustments. The practice of social work involves special knowledge of social resources, human capabilities, and the roles that individual motivation and social influences play in determining behavior and involves diagnoses and the application of social work techniques, including:*

*(a) counseling and using psychotherapy with individuals, families, or groups;*

*(b) providing information and referral services;*

*(c) providing, arranging, or supervising the provision of social services;*

*(d) explaining and interpreting the psychosocial aspects in the situations of individuals, families, or groups;*

*(e) helping communities to organize to provide or improve social and health services;*

*(f) research or teaching related to social work; and*

*(g) administering, evaluating, and assessing tests if the licensee is qualified to administer the test and make the evaluation and assessment.*

Texas

*TAC 22.781.202. The Practice of Social Work.*

*(c) Practice of Master's Social Work--Applying social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, organizations and communities. An LMSW may practice clinical social work in an agency employment setting under clinical supervision, under a board-approved supervision plan, or under contract with an agency when under a board-approved clinical supervision plan. Master's Social Work practice may include applying specialized knowledge and advanced practice skills in assessment, treatment, planning, implementation and evaluation, case management, mediation, counseling, supportive counseling, direct practice, information and referral, supervision, consultation, education, research, advocacy, community organization and developing, implementing and administering policies, programs and activities. An LMSW may engage in Baccalaureate Social Work practice.*

*(e) Independent Practice for LMSWs--An LMSW recognized for independent practice may provide any non-clinical social work services in either an employment or an independent practice setting. This licensee is designated as LMSW-IPR. An LMSW-IPR may work under contract, bill directly for services, and bill third parties for reimbursements for services. An LMSW-IPR must restrict his or her independent practice to providing non-clinical social work services.*



*(h) An LBSW or LMSW who is not recognized for independent practice may not provide direct social work services to clients from a location that she or he owns or leases and that is not owned or leased by an employer or other legal entity with responsibility for the client. This does not preclude in-home services such as in-home health care or the use of electronic media to provide services in an emergency.*

*(i) An LBSW or LMSW who is not recognized for independent practice may practice for remuneration in a direct employment or agency setting but may not work independently, bill directly to patients or bill directly to third party payers, unless the LBSW or LMSW is under a formal board-approved supervision plan. TAC 22.781.102 (37) Independent non-clinical practice--The unsupervised practice of non-clinical social work outside the jurisdiction of an organizational setting, in which the social worker, after having completed all requirements for independent non-clinical practice recognition, assumes responsibility and accountability*

TAC Code 22.781.202. *The Practice of Social Work.*

*(f) Practice of Clinical Social Work--The practice of social work that requires applying 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, and/or persons who are adversely affected by social or psychosocial stress or health impairment. The practice of clinical social work requires applying specialized clinical knowledge and advanced clinical skills in assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions, including severe mental illness and serious emotional disturbances in adults, adolescents, and children. The clinical social worker may engage in Baccalaureate Social Work practice and Master's Social Work practice. Clinical treatment methods may include but are not limited to providing individual, marital, couple, family, and group therapy, mediation, counseling, supportive counseling, direct practice, and psychotherapy. Clinical social workers are qualified and authorized to use the Diagnostic and Statistical Manual of Mental Disorders (DSM), the International Classification of Diseases (ICD), Current Procedural Terminology (CPT) Codes, and other diagnostic classification systems in assessment, diagnosis, treatment and other practice activities. An LCSW may provide any clinical or non-clinical social work service or supervision in either an employment or independent practice setting. An LCSW may work under contract, bill directly for services, and bill third parties for service reimbursements.*

Social work scopes of practice as defined by the [ASWB Model Social Work Practice Act](#)

*Section 104. Practice of Baccalaureate Social Work. (p. 4)*

*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 generalist practice that includes assessment, planning, intervention, evaluation, Case Management, information and referral, counseling, Supervision, Consultation, education, advocacy, community organization, research, and the development, implementation, and administration of policies, programs, and activities.*

*Section 105. Practice of Master's Social Work. (pp. 5-6)*

*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. (p. 6)*

*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.*

See also independent and private practice definitions on p. 9:

*(t) 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.*

*(w) 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.*

### **3. Exam content outlines for the Masters and Clinical exams**

The Masters exam is intended to test the knowledge of applicants who have recently obtained their Master's of Social Work degree and are newly entering practice. The Clinical exam tests the knowledge applicants have learned while performing clinical practice under the direction of a clinical supervisor. The content outlines are as follows:

#### **Masters**

- Human development, diversity and behavior in the environment – 27%
- Assessment and intervention planning – 24%
- Interventions with clients / client systems – 24%
- Professional relationships, values, and ethics – 25%

#### **Clinical**

- Human development, diversity, and behavior in the environment – 24%
- Assessment, diagnosis, and treatment planning – 30%
- Psychotherapy, clinical interventions, and case management – 27%
- Professional values and ethics – 19%

Use the following links to download the content outline for the Masters exam: <https://www.aswb.org/wp-content/uploads/2020/12/2018-Masters.pdf> and the Clinical exam: <https://www.aswb.org/wp-content/uploads/2020/12/2018-Clinical.pdf>

As discussed on the [ASWB website](#) each exam content outline is organized into content areas, competencies, and knowledge, skills, and abilities statements (KSAs). Content areas are the broad areas of knowledge measured by each exam. The content areas organize the content for exam construction and score reporting. Competencies describe meaningful sets of knowledge, skills, and abilities within each content area that are important to social work practice. Knowledge, skills, and abilities statements structure the content of the exam for item development. The KSAs provide further details about the nature and range of exam content that is

included in the competencies. Each KSA describes a single knowledge component that is the basis for individual exam questions used to measure competency.

### **Experiences from other states seeking to require the masters license prior to obtaining clinical supervision and responses to NASW's criticism of the requirement**

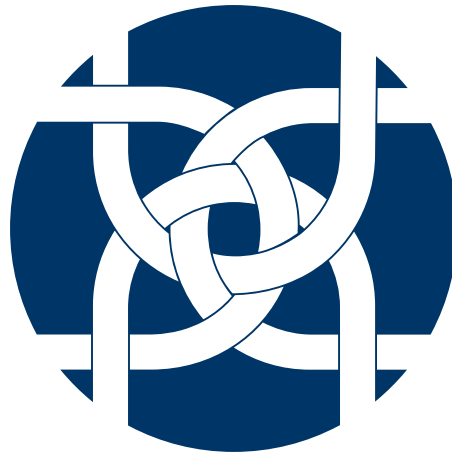
In recent years North Carolina sought to add this requirement as part of other statutory changes requested by the Board. However, bill sponsors required the Board to reach consensus with stakeholders prior to the introduction of legislation and their NASW state chapter was opposed. To strike a compromise the requirement was omitted. NASW perceived the requirement as a barrier for entry to the workforce. The concerns were primarily financial in that newly graduated MSW students often carry debt from their school experience, may have to pay to receive supervision, and that the licensing and exam fees for the master's license are an unnecessary burden and may detract individuals from seeking the clinical license. The Board offered several suggestions that would have helped to address the financial concerns but NASW ultimately said they wouldn't support the legislation if the requirement was included. The Board was able to require the Masters exam if an individual couldn't complete supervised experience and obtain the clinical license within six years.

I understand that NASW has expressed similar concerns about the establishment of this requirement in Virginia, citing workforce shortages and a potential reduction in the number of available clinical social workers. Unfortunately, this isn't an area that ASWB can speak to. You might explore workforce data projections in states with and without the requirement, to see if a case can be made that the requirement doesn't have this unintended consequence. As you may know social work workforce data projections were published in 2018 by the U.S Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Workforce:

<https://bhw.hrsa.gov/sites/default/files/bureau-health-workforce/data-research/state-level-estimates-report-2018.pdf>

<https://bhw.hrsa.gov/data-research/projecting-health-workforce-supply-demand/behavioral-health>

<https://bhw.hrsa.gov/data-research/projecting-health-workforce-supply-demand/behavioral-health>



# Model Social Work Practice Act

Model Law Task Force, 1996 - 1997  
with amendments, 1998 - 2012  
with amendments, 2013 - 2015  
with amendments, 2018

*Association of Social Work Boards*

# model social work practice act

Model Law Task Force, 1996 - 1997  
with amendments, 1998 - 2012  
with amendments, 2013 - 2015  
with amendments, 2018

## Contents

Introduction .....	1
Notes on the Text.....	2
Article I. Title, Purpose, and Definition.....	3
Article II. Board of Social Work.....	11
Article III. Licensing.....	21
Article IV. Enforcement.....	43
Article V. Confidentiality.....	51
Article VI. Mandatory Reporting.....	61
Article VII. Other.....	63
Appendix A: Resources.....	65
Appendix B: Organizations Submitting Input.....	67
Appendix C: Organizations Solicited For Input .....	69
Appendix D: Acknowledgments .....	69

# 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 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 generalist practice that includes assessment, planning, intervention, evaluation, Case Management, information and referral, counseling, Supervision, Consultation, education, advocacy, community organization, research, 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 107. Electronic Social Work Services.**

- (a) The practice of Baccalaureate Social Work, Master's Social Work, or Clinical Social Work in this jurisdiction through Electronic Social Work Services 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 Electronic Social Work Services or other means, regardless of the location of the Client(s), shall constitute the practice of social work and shall be subject to regulation under this Act.
- (c) Social workers providing Electronic Social Work Services shall take all necessary measures to ensure compliance with relevant practice standards.

### **Section 106. Practice of Clinical Social Work.**

Clinical Social Workers are qualified to diagnose using the *Diagnostic and Statistical Manual of Mental Disorders* (DSM), the *International Classification of Diseases* (ICD), and other diagnostic classification systems in assessment, diagnosis, Psychotherapy, and other activities.

### **Section 107. Electronic Social Work Services**

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). The provision of Electronic Social Work Services shall constitute social work practice as defined in the statute.

ASWB recognizes that social work practice via digital and electronic technology is a reality in the health care and behavioral science fields. In 2015, ASWB published *Model Regulatory Standards for Technology and Social Work Practice* to serve as guidance as regulators think through amending rules and regulations related to social work services. Relevant language from these

standards has been integrated into appropriate sections of this Act.

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).

## 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).
- (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) Approved Supervisor means an Approved Clinical Supervisor or licensed social worker who has met the qualifications to be a supervisor as determined by the Board.
- (e) Baccalaureate Social Worker means a person duly licensed to practice Baccalaureate Social Work.
- (f) Board or Board of Social Work means the Board of Social Work created under this Act.
- (g) 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.
- (h) 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.
- (i) Clinical Social Worker means a person duly licensed to practice Clinical Social Work under this Act.

### 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.

- (j) Clinical Supervision means an interactional professional relationship between an Approved Clinical 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.
  
- (k) Continuing Education means education and training which are oriented to maintain, improve, or enhance competent social work practice.
  
- (l) Continuing Education Contact Hour means a sixty (60) minute clock hour of instruction, not including breaks or meals.
  
- (m) Consultation means an advisory professional relationship between a social worker and a person with particular expertise, with the social worker legally and ethically maintaining responsibility for all judgments and decisions regarding service to the Client.
  
- (n) 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.
  
- (o) 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.

**Section 109(j). 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.)

**Section 109(m). Definitions.**

See comment on Section 109(j)

- (p) Electronic Social Work Services mean the use of computers (including the Internet, social media, online chat, text, and email) and other electronic means (such as smartphones, landline telephones, and video technology) to (a) provide information to the public, (b) deliver social work services to Clients, (c) communicate with Clients, (d) manage confidential information and case records, (e) store and access information about Clients, and (f) arrange payment for professional services.
- (q) Examination means a standardized test or examination of social work knowledge, skills and abilities approved by the Board.
- (r) Felony means a criminal act as defined by this state or any other state or by definition under federal law.
- (s) 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).
- (t) 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.
- (u) Licensee means a person duly licensed or registered under this Act.
- (v) Master's Social Worker means a person duly licensed to practice Master's Social Work.
- (w) 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.
- (x) Program of Continuing Education means an educational program offered by an Approved Provider of Continuing Education.

- (y) 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.
- (z) Supervision for Licensure means the professional relationship between a supervisee and an Approved Supervisor who provides oversight, direction, and evaluation over the services provided by the supervisee and promotes continued development of the supervisee's knowledge, skills, and abilities to provide social work services in an ethical and competent manner.

**Section 109(y). Definitions.**

See comment on Section 109(j)

## 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 at least one Baccalaureate Social Worker, Master's Social Worker, and Clinical Social Worker.

### 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:

- (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 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.

### 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.

### Section 203(b). Qualifications.

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

### 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.

- (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.

### **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.

- (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 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 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 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

**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.**

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 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.

- 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;
  - (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.

**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.

- (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.
- (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).

**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.

- (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.
  - (ix) Approval of providers or programs for Continuing Education.



(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.
- (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

#### **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.

#### **Section 301(h) Temporary Practice.**

It is recommended that legislatures address technology driven and Electronic Social Work

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.

Service issues and emergency and disaster response 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 granted only to individuals duly licensed to practice social work in another jurisdiction.

Based upon the uniformity in accredited educational programs and the ASWB social work 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 language that verifies the submission of the individual to the jurisdiction and the applicability of the laws of the jurisdiction.

(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 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.

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 the time that the emergency or disaster declaration is in effect.

This temporary practice approach provides the Board with valuable information as to who is practicing within the jurisdiction in the event of a reported complaint or wrongdoing.

### **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

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

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.

**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 field education. See Comment to Section 213(a)(4) for a discussion of the Board’s role in the accreditation process.

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

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

**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

field education. 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 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)(3). Qualifications for Licensure by Examination as a Clinical Social Worker.**

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

#### **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 field education. 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



- (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;

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 under a plan for supervision for a specified period of time and under terms and conditions set by the Board.

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.

#### **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 applicable laws related to individuals with disabilities.

#### **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, electronically or face to face. Factors should also 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, electronic or in person*
  - (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.*

(11) Supervision records must be submitted to centralized social work credential databank.

## **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) *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.
- (3) *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.
- (4) *An individual providing Supervision shall be licensed as a Clinical Social Worker.*

- (5) *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*
- (6) *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.*
- (7) *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.*
- (8) *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, electronic or in person*
  - (iii) *Learning objectives*
  - (iv) *Professional growth*
  - (v) *Intervention processes*
  - (vi) *Plans for documentation*
  - (vii) *Ethics and values*
  - (viii) *Evaluation*
- (9) *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.*
- (10) *Supervision records must be submitted to centralized social work credential databank.*

## 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.
- (b) The Examination shall document that the applicant meets the standard for minimum competence to engage in the relevant practice of social work. The Board may employ, cooperate with, 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.

### 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).

## ***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) To obtain a license by endorsement at the equivalent designation and subject to Article IV of this Act, an applicant currently licensed as a social worker in another jurisdiction must provide evidence satisfactory to the Board, subject to Article III, Section 311, that the applicant:
  - (1) Has submitted a written application and paid the fee as specified by the Board; and
  - (2) Has presented to the Board proof of an active social work license in good standing.

## **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.

(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(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.

### **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 – Continuing Social Work Competence***

- (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, courses delivered through electronic media or technology, and other forms of self-study upon approval of the Board, shown to update or enhance social work competence.*

- (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, or confer with and rely upon the expertise of an entity in making such determination, 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 documentation and verified data gathered and stored by not for profit organizations which share in the public protection mission of this Board.

## Section 311. Source of Data.

Understanding the movement toward outsourcing certain Board functions in an effort to 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. Enforcement.

### 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.

#### 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.

- (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:



- (1) Unprofessional conduct as determined by the Board;

- (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;

- (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;

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.

**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).

**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.

**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

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

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

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 applicable laws related to individuals with disabilities. Board action must be based on the protection of the public—the ultimate goal of the practice act. The Board must, however, protect any medical records of Licensees from public scrutiny as mandated by applicable privacy laws.

**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.

**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 jurisdiction, 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 related 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;

(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

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

As stated in comments to Section 401(a)(4), applicable laws related to individuals with disabilities are 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.

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 complete other requirements including but not limited to passing an Examination(s).

#### **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 Public 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 Administrative 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 from or provided by a Client or from persons consulting with 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

### 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).



by the requirements of justice, the need to protect the public safety or the need to protect the minor.

- (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.

## ***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.*

***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.*

### **Section 501(d). Privileged Communications and Exceptions.**

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

### **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 4. Professional Disclosure Statement.** *A social worker shall effectively communicate and make easily accessible a statement that the Client has the right to do 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 and in all jurisdictions where licensed;*
- 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*

### **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.*

### **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.*

**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.*

### **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.

### **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.

- 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 manner whose circulation encompasses the major area of a practitioner's former practice, 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.

**Standards of Practice. Part 5. Relationships with Clients and Former Clients.**

As technology has made geographic boundaries easier to cross, so has electronic practice increased the permeability of Client-social worker boundaries. Boards will need to be vigilant as they regulate social work practice to ensure that digital and electronic services are used only for professional or treatment-related purposes and only with Client consent.

**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.

**Subpart 5. Sexual contact defined.** *Sexual contact includes but is not limited to electronic exploitation, 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.*

**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*

## **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.

## **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

*consent shall explain to whom the Client information will be disclosed or released and the purpose and time frame for the release of information.*

**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(s), or that there is a serious threat to public harm. 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.*

**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.*

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.

**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 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. 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.*

**Subpart 5. Client bill of rights including:**

- Professional profile and contact information
- Terms of use, privacy policy, and informed consent
- Guidelines to assist Clients who require crisis services
- Risks of interruption in services
- Consumer information: license/registration number; governmental regulatory body's name and contact information
- Right and contact information to report alleged violations to governmental body

**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 without impact on receipt of social work services.*

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

The social worker shall conspicuously display all professional licenses or registrations in all practice settings, including physical and virtual office settings.

**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 or CASW Codes 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,
  - (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;

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

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

(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).

Appendixes A-D reflect contributions made during the development of the original Model Social Work Practice Act in 1996-1997. Subsequent revisions are the result of contributions from all ASWB members.

## 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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# Appendix B: Organizations Submitting Input to the 1996-1997 Model Law Task Force

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 in 1996-1997

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.





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## **Board of Counseling**

### **Guidance on Emotional Support Animals**

Licensees who are asked by clients to write letters or otherwise advocate for clients' use of emotional support animals, therapy animals, or other animal-assisted accommodations are advised to consider whether the licensee has relevant training and/or experience to support such advocacy.

Licensees are also advised to consider the plan for treatment, appropriate documentation, and the justification for their advocacy, based on clinical reasons.

Sections of the standards of practice for licensed professional counselors\* that may be applicable include guidance to:

18VAC115-20-130 B. 1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare;

18VAC115-20-130 B. 2. Practice only within the boundaries of their competence, based on their education, training, supervised experience and appropriate professional experience and represent their education training and experience accurately to clients;

18VAC115-20-130 B. 3. Stay abreast of new counseling information, concepts, applications and practices which are necessary to providing appropriate, effective professional services;

18VAC115-20-130 B. 4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic purposes;

18VAC115-20-130 C 5. Maintain client records for a minimum of five years or as otherwise required by law from the date of termination of the counseling relationship.

*\*Similar standards of practice are found in regulations for marriage and family therapists, licensed substance abuse treatment practitioners, and certified substance abuse counselors*