

A Model Practice Act for Clinical Social Work

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Preamble to Model Practice Act of Center for Clinical Social Work

This Model Practice Act for Clinical Social Work is a new way of looking at state licensure of Clinical Social Workers, the predominate provider of behavioral health care in the United States. This Act, consisting of statutes and regulations, is offered to inform the process of revision and renewal of state laws that regulate Clinical Social Work. The statutes are intended to be universal and sufficient to protect the public; the regulations are more specific, and may be customized as needed.

This Act regards Clinical Social Work as a healthcare profession for which state licensure is necessary in order to protect the public from the risk of fraudulent and abusive practice. The risk exists (as with Physicians and psychologists) because the consumer gives the clinician significant power to affect his or her mental and emotional condition, often in a practice setting that is private.

In this Model Practice Act, the Clinical Social Workers' professional qualifications are identified as originating in social work schools at the master's level. Post-graduation, the Associate Clinical Social Worker enters a training phase in which he/she practices for at least two years under the close supervision of an experienced behavioral health professional who takes legal responsibility for the Associate's work. These levels of education and training—and nothing less—are the fundamentals for becoming a Clinical Social Worker capable of competent autonomous (unsupervised) practice.

This Act does not include or propose licensure-related material aimed at Non-Clinical (Generic) Social Workers, whose terminal degree is the baccalaureate. We see no reason for them to be licensed: they do not provide services of the same sort as Clinical Social Workers educated at the master's-degree level and with years of post-graduate supervised clinical training. This disparity in standards of education and training creates a gulf so wide that Generic Social Work and Clinical Social Work should not be related under state licensure laws. The similarity in nomenclature should not be mistaken for similarity of preparation, capabilities, or interventions.

We oppose the licensure of baccalaureate-level Generic Social Workers, and of their inclusion in a multi-tier licensing law for Clinical Social Workers, because such licensure misleads the public and injures the profession of Clinical Social Work. Some state laws have a multi-tier scheme in which the first level is that of baccalaureate Social Work (LSW). We reject the logic of multi-tier licensure, which produces a “cascading” set of descriptions, starting with “Baccalaureate Social Worker” and proceeding to “Master Social Worker” and “Clinical Social Worker,” although the first has little to do with the next two.

In these schemes, LSW practice-characteristics are described in great detail, and form the basis for all further description. At the next level, the LMSW, the wording is nearly identical, with the addition of a few words or phrases to delineate LMSW practice. The scheme's final level, LCSW or LICSW, characterizes a Clinical Social Worker, capable of autonomous practice, in terms nearly identical to the LSW and LMSW, with the addition of only a few words and phrases. This entire arrangement is a fallacy, since it is premised on a description of baccalaureate-level Social Work, a field of endeavor so dissimilar from Clinical Social Work that a description of one cannot be used as the basis for describing the other.

We also believe that the LSW is irrelevant to the issue of public protection, which is the *raison d'être* for licensure. If a practitioner does not have autonomous standing and private interactions with the public, there is no reason for licensure. We know of no instance in which baccalaureate-level Social Workers provide autonomous services: their work is the responsibility of an agency or of a more competent individual acting as a legal supervisor. Any fraud or abuse is the fault of the supervisor, and not of the Social Worker. By the nature of their lack of education and training, Social Workers may not provide professional mental healthcare and related services. Only Clinical Social Workers may provide services autonomously and in private settings in which the consumer may fall victim to fraud or abuse.

Finally, we oppose the licensure of baccalaureate-level Social Workers on the grounds that any description of services attributable to Social Workers is certain to lead to conflation of those services with those provided by Clinical Social Workers. For example, some state laws attribute to Social Workers the right to address consumers' "psychosocial, or bio-psychosocial functioning" and to provide clinical services and to use clinical methods—professional use of self; assessment; evaluation; counseling; and consultation—even though Social Workers notably lack the education and training to do so.

In some state laws, baccalaureate-level Social Workers are allowed to provide clinical services when under the supervision of a clinical professional. This too is an egregious error, because such supervision does not endow the supervisee with the education and training required for competent provision of services. This sort of supervised practice constitutes a fraud on the consumers, who are thus denied the services of a competent clinical professional. To understand the gravity of this mistake, one has only to compare it with scenarios in which a license allows a baccalaureate-level nurse to perform surgery when supervised by a physician, or a baccalaureate-level paralegal to conduct a criminal defense when supervised by a lawyer.

There are fifty-one different licensure laws for Clinical Social Work in the United States; but there are only two model practice acts: this one, and one published by the Association of Social Work Boards (ASWB), an organization made up of Social Work licensing boards, none of which is specific to Clinical Social Work alone. It is perhaps not surprising that licensing boards which have multi-disciplines under their purview would also have multi-tier licensing, inclusive of different vocations. But that does not make it reasonable, just, logical, or helpful in protecting the public (which is the only justification for the creation of a license and the existence of licensure laws).

We are especially concerned that the ASWB Model Practice Act attributes a great deal of clinical functionality to "baccalaureate social workers" and to "master's social workers". Neither one should be endowed with any clinical functions. Equally alarming is the conflation of the term "master's level social workers" with the concept of Clinical Social Worker-in-training. These two concepts should not be mixed; and our Model Practice Act clearly delineates the characteristics and limits of practice that actually belong to a post-graduate in-training Clinical Social Worker, whom we term a Clinical Social Worker Associate, versus a Master's-Level Social Worker, who is a Social Worker who holds a Master's Degree without the clinical

education and training that would qualify him/her for the practice of Clinical Social Work.

Aside from our belief that they should not be licensed with Clinical Social Workers, we have no opinion on the licensure of these master's-level Social Workers who choose not to pursue Clinical Social Work as a career, and who may provide autonomous non-clinical services as "Community/Policy Social Workers."

Because this Model Practice Act is concerned solely with protection of the public from frauds and abuses of Clinical Social Workers, we believe that the proper mechanism for state oversight is a Clinical Social Work Licensing Board, whose members should include representatives of the public and a majority of Clinical Social Workers (as with licensing boards for Clinical Psychology), in order to bring proper clinical judgment to the consideration and adjudication of incidents and transgressions that are alleged against a practitioner. Non-Clinical Social Workers are not suitable to adjudicate Clinical Social Work cases or to protect the public at the level that the public deserves.

A Model Practice Act for Clinical Social Work

Article I. Title, Purpose, and Definition

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) Clinical Social Work Practice Act.”

Section 102. Legislative Declaration.

The practice of Clinical Social Work in the (state) 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 Clinical 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 Clinical Social Work in the _____ of _____ (jurisdiction). This Act shall be liberally construed to carry out these objectives and purposes.

Section 103. Statement of Purpose.

It is the purpose of this Act to promote, preserve, and protect the public health, safety, and welfare by and through the effective control and regulation of the practice of Clinical Social Work; the licensure of Clinical Social Workers; and the licensure, control, and regulation of persons, in or out of this state, who practice Clinical Social Work within this state.

Section 104. Scope of Practice

The practice of Clinical Social Work shall mean the professional application of Social Work theory, principles, and methods, to include the Diagnosis of mental, emotional, behavioral, addictive, and developmental disorders and disabilities; and aspects of illness, injury, disability, and impairment, undertaken within a bio-psychosocial framework. It also includes administration and interpretation of tests and measures of bio-psychosocial functioning that are consistent with the Clinical Social Worker’s training; creation of assessment-based Treatment Plans; and brief (including crisis-oriented), short-term, and long-term Counseling, Psychotherapy, and psychotherapeutic interventions with individuals, couples, families and groups. It also

includes advocacy, Clinical Case Management, Client and family education, and Consultation. All of these functions are aimed at preventing, assessing, ameliorating, and resolving bio-psychosocial dysfunction among individuals, couples, families, and small groups, as well as organizations, communities, and society. Licensed Clinical Social Workers provide all forms of supervision to Associate Clinical Social Workers and to other professionals who may be described by the Board.

Section 105. Authorized Practice and the Use of the Title LCSW

Practice of "Licensed Clinical Social Work" and use of the title "Licensed Clinical Social Worker" and designation "LCSW"

1. Only a person licensed or exempt under this article shall practice "Licensed Clinical Social Work" as defined in Section 104 of this article.
2. Only a person licensed pursuant to Section 104 of this article shall use the title "Licensed Clinical Social Worker" or the designation "LCSW".

Section 106. 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 pursuant to provisions of Section 302 (5)
- (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 graduate school or department of Social Work or a Social Work educational program that has been approved by the Board.
- (d) Associate Clinical Social Worker means a pre-Licensed Clinical Social Worker who shall be undertaking at least 3000 hours of post-master's degree Clinical Social Work services under supervision, at least 1600 of which shall be gained under the supervision of a Licensed Clinical Social Worker.
- (e) Board or Board of Social Work means the Board of Clinical Social Work created under this Act.
- (f) Clinical Case Management means a method to plan, provide, evaluate, and monitor services of a clinical nature from a variety of resources on behalf of and in collaboration with a Client.
- (g) Client means the individual, couple, family, group, organization, or community that seeks or receives Social Work services from an individual Clinical Social Worker or an organization. Client status is not dependent on billing or payment of fees for such services.
- (h) Clinical Social Work is a mental-health profession whose practitioners, educated in approved Social Work graduate schools and trained under supervision, master a distinctive body of knowledge and skills in order to assess, diagnose, and ameliorate problems, disorders, and conditions that interfere with healthy bio-psychosocial functioning of people of all ages and backgrounds.
- (i) Clinical Social Worker means a person duly licensed to practice Clinical Social

Work under this Act.

(j) Clinical Supervision means a professional relationship between a supervisor and a Clinical Social Worker supervisee in which the supervisor provides direction and evaluation to the supervisee in his/her practice, in order to foster continued development of the knowledge, skills, and approaches that constitute competent and ethical practice. Supervision means the same as Clinical Supervision

(k) Consultation means a problem solving process in which a Clinical Social Worker provides expertise to an individual, group, organization or community. Consultation does not mean or imply legal control or authority.

(l) Continuing Education means education and training that are oriented to maintain, improve or enhance Clinical Social Work practice.

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

(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 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 concerns.

(p) Diagnosis in this context is the non-medical process of using a bio-psychosocial framework to discern impairments and disabilities in terms of the characteristics of mental, emotional, behavioral, developmental, and addictive disorders, consistent with accepted classification systems.

(q) Examination means a standardized test or Examination of Clinical Social Work knowledge, skills, and approaches 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 National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Databank (HIPDB).

(t) Independent Practice means practice of Clinical Social Work outside of an organized setting, such as a social, medical, or governmental agency, in which the Clinical Social Worker assumes responsibility and accountability for services provided.

(u) Licensed Clinical Social Worker or Licensee means a person duly licensed

under this Act.

(v) 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.

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

(x) Psychotherapy means the use of verbal and other interpersonal methods by which a Clinical Social Worker, using a bio-psychosocial framework, establishes a therapeutic relationship with a person or persons to help them understand psychological problems and their causes in order to achieve a higher level of well-being and functionality.

(y). Treatment Plans. Assessment-based Treatment Plans are created to prioritize interventions based on the Diagnosis and bio-psychosocial assessment of the Client. The plan addresses social problems; reactions to illnesses and injuries; and disorders, impairments, and disabilities that are mental, emotional, behavioral, developmental, and addictive in nature.

Section 107. Other Clinical Social Work Services

In addition to the services included in other subdivisions of this article, Licensed Clinical Social Workers may perform the following functions that do not require a license under this article, including but not limited to:

1. Serve as a community organizer, planner, or administrator for social service programs in any setting.
2. Provide administrative supervision and/or Consultation to individuals, groups, institutions, and agencies.
3. Serve as a faculty member or instructor in an educational setting.
4. Plan and/or conduct research projects and practice evaluation studies.
5. Maintain familiarity with local professional systems and self-help systems in order to assist the Client to gain access to those services when necessary.
6. Assist individuals or groups with difficult day-to-day problems such as finding employment and locating sources of assistance in the community.
7. Provide non-clinical Consultation to other agencies on problems and cases served in common and coordinate services among agencies and provide case management of a non-clinical nature.
8. Conduct data-gathering on social problems.
9. Serve as an advocate for those Clients or groups of Clients whose needs are not being met by available programs or by a specific agency.
10. Provide training to community groups, agencies, and other professionals.

Article II. Board of Clinical Social Work

Section 201. Designation.

The responsibility for enforcement of the provisions of this Act is hereby vested in the Board of Clinical 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, the majority of whom shall be Clinical Social Workers, who possess the qualifications specified in Section 203, and the remainder shall be public representatives.

Section 203. Qualifications.

- (a) Each Clinical Social Worker member of the Board shall:
 - (1) Be a resident of this state or jurisdiction;
 - (2) Be currently licensed and in good standing to engage in the practice of Clinical Social Work in this state or jurisdiction;
 - (3) At the time of appointment, have been actively engaged in the practice of Clinical 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 Clinical Social Work.
- (b) Public member(s) of the Board shall be residents of this state or jurisdiction who have attained the age of majority and shall not be, nor shall ever have been, a Clinical Social Worker, or the spouse or domestic partner thereof, or a person who has any material financial interest in the provision of Clinical Social Work services or who has engaged in any activity directly related to the practice of Clinical Social Work, other than a consumer of Clinical Social Work services.

Section 204. Appointment.

The Governor and the Legislature 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 that 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 and the Legislature 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;
 - (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. Governance.

- (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 an 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 209. Compensation of Board Members.

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

Section 210. Meetings.

- (a) The Board shall meet at least once every three (3) month(s) to transact its business. The Board shall meet at such additional times as it may determine. Such additional meetings may be called by the Chairperson of the Board or by two-thirds (2/3) of the members of the Board.
- (b) The Board shall meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting and shall not be changed after such notice is given without adequate prior notice.
- (c) Notice of all meetings of the Board shall be given in the manner and pursuant to requirements prescribed by the Administrative Procedures Act.
- (d) A majority of the members of the Board shall constitute a quorum for the conduct of a Board meeting and, except where a greater number is required by this Act or by any rule of the Board, all actions of the Board shall be by a majority of a quorum.
- (e) All Board meetings and hearings shall be open to the public. The Board may, in its discretion and according to law, conduct any portion of its meeting in executive session, closed to the public.

Section 211. Employees.

The Board may, at 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 and regulations 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 or other applicable laws.

Section 213. Powers and Responsibilities.

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

- (1) The licensing by Examination or by licensure transfer of applicants who are qualified to engage in the practice of Clinical Social Work under the provisions of this Act;
 - (2) The renewal of licenses to engage in the practice of Clinical Social Work;
 - (3) The establishment and enforcement of compliance with professional standards of practice and rules of conduct of Clinical Social Workers engaged in the practice of Clinical 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 practice training;
 - (5) The enforcement of those provisions of the Act relating to the conduct or competence of Clinical Social Workers practicing in this state, investigation of any such activities related to the practice or unauthorized practice of Clinical Social Work, and the suspension, revocation, or restriction of licenses to engage in the practice of Clinical 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 Clinical 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 Clinical 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 Clinical 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 Clinical Social Work for the protection of the health and welfare of the public and/or whose activities assist and facilitate the work of the Board.
 - (2) The Board may receive and expend funds, in addition to its [annual/biennial] appropriation, from parties other than the state, provided:
 - (i) Such funds are awarded for the pursuit of a specific objective which the Board is authorized to accomplish by this Act, or which the Board is

qualified to accomplish by reason of its jurisdiction or professional expertise;

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

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

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

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

(3) The Board may establish a Bill of Rights for Clients concerning the services a Client may expect in regard to Clinical Social Work services.

(4) Any investigation of a Licensee by the Board under this act must be carried out within the laws and regulations of this state by a person(s) familiar with the provisions of this Act and with the professional and ethical standards of the profession of Clinical Social Work.

(5) 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).

(6) It is the duty of the Attorney General, to whom the Board reports any violation of this Act that also is deemed to violate 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.

(7) 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 that the Board is authorized to conduct, and any other oaths authorized in any Act administered by the Board.

(8) 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.

(9) Cost Recovery.

(i) If any order issues in resolution of a disciplinary proceeding before the Board, the Board may request the administrative law judge or hearing officer (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 Clinical 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 an 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.

(vi) Any action for recovery of costs pursuant to this Section shall be subject to the outcome of any appeal on behalf of the Licensee.

(10) Notwithstanding any other law to the contrary, the board shall, on a timely basis, publicize and report Final Adverse Actions ultimately determined against any individual to any and all agencies required by law. The board shall also report on these actions, in a timely manner, to all entities required by federal, state or local law and other entities determined by the Board. The duration of the report's being made public, based on a practice compliance issues will expire with the licensure renewal cycle. Only in the case of major disciplinary actions will the report be made to or maintained by a national database service.

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

Article III. Licensing

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 Clinical Social Work unless duly licensed as a Clinical Social Worker under the applicable provisions of this Act.

- (b) No individual shall offer Clinical Social Work services or use the designation Licensed Clinical Social Worker or the initials LCSW or any other designation indicating licensure status or hold themselves out as a practicing Clinical Social Worker unless duly licensed as such.
- (c) The provision of Clinical Social Work services to a resident of this state or jurisdiction, through telephonic, electronic, or other remote means, regardless of the location of the Clinical Social Worker, shall constitute the practice of Clinical Social Work and shall be subject to this states laws and regulations.
- (d) Any individual who, after hearing, shall be found by the Board to have unlawfully engaged in the practice of Clinical 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 Clinical Social Work shall also constitute a _____(misdemeanor) punishable upon Conviction as provided in the criminal code of this state.
- (e) 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 Clinical Social Work or that they are licensed to engage in the practice of Clinical Social Work.
- (f) Students in good standing currently participating in an Approved Social Work Program are exempt from licensure under this Act when under supervision completing under supervision, internship, externship, or other Clinical Social Work experience requirements for such programs.
- (g) An individual licensed to practice Clinical Social Work in another jurisdiction may, upon prior written application to and approval by the Board, practice Clinical 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.
- (h) An individual licensed to practice Clinical Social Work in another jurisdiction who is providing services within the scope of practice designated by such license and in response to a disaster or emergency declared by the appropriate authority or governor of the state may, upon prior written notice to the Board, provide such services in this jurisdiction for a period of time not to exceed 60 consecutive days per year without applying for a license. The practitioner who provides services under this paragraph shall be deemed to have submitted to the jurisdiction of the applicable board and be bound by the laws of this state.

Section 302. 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 that the applicant:
- (1) has submitted a written application in the form prescribed by the Board;
 - (2) has attained the age of majority;
 - (3) is of good moral character;
 - (4) has 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 requirements outlined in Section 303
- (5) 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.
- (8) has graduated and received a Master's or Doctorate degree in Social Work from an Approved Social Work Program, meaning a school of Social Work or a Social Work educational program that has been approved by the Board. To be registered as a program recognized as leading to licensure in Clinical Social Work, the program shall:
- a. be a program in social work leading to a master's degree or its equivalent, which includes at least 60 semester hours, or the equivalent, of graduate study;
 - b. contain curricular content, including but not limited to, each of the following content areas:
 - i. Social Work values and ethics;
 - ii. diversity, social justice, and at-risk populations;
 - iii. human behavior in the social and cultural environment;
 - iv. social welfare and mental health policy and service delivery systems;
 - v. foundation and advanced direct social work practice;
 - vi. social work practice evaluation and research;
 - vii psycho-pharmacology and testing;
 - c. include a field practicum of at least 900 clock hours in social work integrated with the curricular content prescribed herein; and
 - d. include at least 12 semester hours or the equivalent of coursework that prepares the individual to practice as a Licensed Clinical Social Worker by providing clinical content which emphasizes the person-in-environment perspective and knowledge and skills in the following areas of Clinical Social Work practice:
 - i. Diagnosis, assessment, and treatment planning;
 - ii. treatment and intervention;
 - iii. practice with general and special populations;
 - iv. the principles of recovery oriented mental health services and

- delivery;
- v. the understanding of various cultures and the social and psychological implications of socio-economic status;
- vi. awareness of the consumer and family perspectives of mental health, mental illness, treatment and recovery.

Section 303. Clinical Supervision and Other Training Programs.

- (a) All individuals not yet licensed as a Clinical Social Worker shall register with the Board as an Associate Clinical Social Worker. In the period before becoming eligible for licensure, an Associate shall provide at least 3000 hours of post-master's degree Clinical Social Work services under supervision. At least 1600 of these hours shall be gained under the supervision of a Licensed Clinical Social Worker; the remaining hours may be supervised by a licensed mental health professional as defined by this Act. All supervisors shall be approved by and registered with the Board.
- (b) Supervised Experience shall consist of the following:
 - (1) A minimum of 2,000 hours in bio-psychosocial Diagnosis, assessment, and treatment, including Psychotherapy or Counseling.
 - (2) A maximum of 1000 hours in Client-centered advocacy, Consultation, evaluation, and research.
 - (3) Experience shall have been gained in not less than two nor more than six years and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.
- (c) Supervision means legal responsibility for and control of the quality of Clinical Social Work services being provided.
- (d) Consultation or peer discussion shall not be considered to be supervision.
- (e) Supervision shall include at least one hour of direct individual contact between supervisor and supervisee for every 25 hours of Client contact, for a minimum of 104 weeks (note: an equivalent of one hour of individual supervision is two hours of face-to-face supervisory contact in a group setting of not more than four persons). Of the 104 weeks of required supervision, at least 52 weeks shall be under individual supervision.
- (f) The Supervisor and the Associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The Associate shall submit to the Board the original supervisory plan upon application for licensure.
- (g) Experience shall only be gained in a setting that meets the following criteria:
 - (1) Lawfully and regularly provides Clinical Social Work, mental health Counseling, or Psychotherapy.
 - (2) Provides oversight to ensure that the Associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 104.
 - (3) Experience shall not be gained until the applicant has been registered as an Associate Clinical Social Worker.

- (h) Employment in a Private Practice as defined in Section 106 (t) shall not commence until the applicant has been approved and registered as an Associate Clinical Social Worker.
- (i) A Private Practice setting is one that is owned by a Licensed Clinical Social Worker or other licensed healthcare professional or a professional corporation of any of those licensed professions.
- (1) If volunteering, the Associate shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.
- (2) If employed, the Associate shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.
- (j) If an Associate is a paid employee, employers must provide fair remuneration to the Associate.
- (k) An Associate shall not do the following:
- (1) Receive any remuneration from patients or Clients and shall only be paid by his or her employer.
- (2) Have any proprietary interest in the employer's business.
- (l) An Associate, whether employed or volunteering, may obtain supervision from a person not employed by the Associate's employer only if that person has signed a written agreement with the employer to take legal supervisory responsibility for the Associate's Clinical Social Work services.
- (m) Qualified Supervisors:
- (1) To be satisfactory, supervision must be provided by:
- (i). A Licensed Clinical Social Worker who, at the time of supervision of the applicant, was a Licensed Clinical Social Worker or the equivalent as determined by the Board, and;
- (ii) Has a minimum of 4500 hours of clinical practice experience, earned over a period of three years beyond receipt of a Master's degree
- (iii) Has completed 12 clock-hours post-graduate course work in supervision in a school of Social Work or in an approved program of Continuing Education.
- (2) A Clinical Psychologist who, at the time of supervision of the applicant, was licensed as a Psychologist in the state where supervision occurred and was qualified in Psychotherapy as determined by the Board based upon a review of the clinical psychologist's education and training, including but not limited to education and training in Psychotherapy obtained through completion of a program accredited by the American Psychological Association; or
- (3) A Physician who, at the time of supervision of the applicant, was a Diplomate in Psychiatry of the American Board of Psychiatry and Neurology, Inc., or had the equivalent training and experience as determined by the Board.
- (4) Other licensed mental health professionals as determined by the Board, if necessary, and in accordance with the standards set forth in this Act.

Section 304. 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 be prepared to measure the competence of the applicant to engage in relevant practice of Clinical Social Work. The Board may employ, cooperate, and contract with any organization or consultant in the preparation, administration and grading of an Examination, but shall retain the sole discretion and responsibility for determining which applicants have successfully passed such an Examination.

Section 305. Qualifications for License Transfer.

(a) In order for a Clinical Social Worker currently licensed in another jurisdiction to obtain a license as a Clinical Social Worker by license transfer in this state, an applicant must provide evidence satisfactory to the Board that the applicant:

- (1) Has submitted a written application in the form prescribed by the Board;
- (2) Has attained the age of majority;
- (3) Is of good moral character;
- (4) Has a Masters degree in Social Work at the designation for which the applicant is seeking licensure;
- (5) Has possessed at the time of initial licensure as a Clinical Social Worker all other qualifications necessary to have been eligible for licensure at that time in this state;
- (6) Has presented to the Board a passing score on the designated licensure Examination;
- (7) Has presented to the Board proof that the transferring Social Work license is current and in good standing;
- (8) Has presented to the Board proof that any Clinical Social Work license or any other professional license or other credential granted to the applicant by any other state has not been suspended, revoked, or otherwise restricted for any reason except non-renewal or for the failure to obtain the required Continuing Education credits in any state where the applicant is or has been licensed; and
- (9) Has paid the fees specified by the Board.

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

Section 306. 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 Clinical Social Work as set forth in this Act.

(d) If a Clinical 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 Clinical 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 307. Continuing Clinical Social Work Competence.

The Board shall, by rule, establish requirements for Continuing Education in Clinical 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.

Article IV. Discipline

Section 401. Grounds, Penalties, and Reinstatement.

(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 Clinical Social Work with reasonable skill, competence, and safety to the public;
- (5) Conviction of a Felony (as defined under state, provincial, or federal law);
- (6) Any act involving moral turpitude or gross immorality;
- (7) Violations of the laws of this state, or rules and regulations pertaining thereto, or of laws, rules and regulations of any other state, or of the federal government;
- (8) Misrepresentation of a material fact by an applicant or Licensee;
 - (i) In securing or attempting to secure the issuance or renewal of a license;
 - (ii) In statements regarding the Clinical 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 Clinical Social Work including, but not limited to, false or misleading advertising;

(9) Fraud by a Licensee in connection with the practice of Clinical Social Work including engaging in improper or fraudulent billing practices or violating Medicare and Medicaid laws or state medical assistance laws;

(10) Engaging or aiding and abetting an individual to engage in the practice of Clinical Social Work without a license, or falsely using the title of Clinical 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) Violations by examinees:

(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;

(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 Clinical Social Work or related license or of other adverse action related to a Clinical Social Work or related license in another jurisdiction or country including the failure to report such adverse action to the Board;

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

(b) Impaired Licensees:

(1) The Board may defer action with regard to an impaired Licensee who voluntarily signs an agreement, in a form satisfactory to the Board, agreeing not to practice Social Work and to enter an approved treatment and monitoring program in accordance with this section, provided that this section should not apply to a Licensee who has been convicted of, pleads guilty to, or enters a plea of *nolo contendere* to a felonious act or an offense relating to a controlled substance in a court of law of the United States or any other state, territory, or country or a Conviction related to sexual misconduct. A Licensee who is physically or mentally impaired due to mental illness or addiction to drugs or alcohol may qualify as an impaired Social Worker and have disciplinary action deferred and ultimately waived only if the Board is satisfied that such action will not endanger the public and the Licensee enters into an agreement with the Board for a treatment and monitoring plan approved by the Board, progresses satisfactorily in such treatment and monitoring program, complies with all terms of the agreement and all other applicable terms of subsection

(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.

(3) The Board may require a Licensee to enter into an agreement that includes, but is not limited to, the following provisions:

(i) Licensee agrees that the license shall be suspended or revoked indefinitely under subsection 401(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.

(4) The ability of an impaired Clinical 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.

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

(6) 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.

(7) Any Clinical 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 Clinical 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 that have changed sufficiently to warrant such modifications. The Board, also at its discretion, may require such person to pass an Examination or Examinations for reentry into the practice of Clinical Social Work.

(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 Clinical 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. Relationships with Clients

A Clinical Social Worker shall not engage in a personal, business or sexual relationship with a current Client.

Section 403. Procedure.

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

Article V. Confidentiality

Section 501. Privileged Communications and Exceptions.

(a) No Clinical Social Worker shall disclose any information acquired from or provided by a Client or from persons consulting the Clinical Social Worker in a professional capacity, except that which may be 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, disability, or incapacity of a Client, 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) In the case of the death, disability, incapacity, or change in licensure status that prohibits the Licensee from rendering competent Social Work services, and under means that ensure the limited disclosure of confidential records and information, the Licensee or other individual responsible for supervising the disposition of the practice shall have the right to notify impacted Clients of their right to retrieve such Client's files under proceedings established in regulations promulgated by the Board;

(5) When a communication reveals the intended commission of a crime or harmful act and such disclosure is judged necessary by the Clinical 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;

(6) When the person waives the privilege by bringing any public charges against the Licensee;

(7) At such times when other laws pertaining to the disclosure of confidential information apply.

(b) When the person is a minor under the laws of this state or jurisdiction and the information acquired by the Clinical Social Worker indicates the minor was the victim or subject of a crime, the Clinical Social Worker may be required to testify in

any judicial proceedings in which the commission of that crime is the subject of inquiry and when the court determines that the interests of the minor in having the information held privileged are outweighed by the requirements of justice, the need to protect the public safety or the need to protect the minor.

(c) Any person having access to records or anyone who participates in providing Clinical Social Work services or who, in providing any human services, is supervised by a Clinical 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 Clinical 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.

Article VI. Mandatory Reporting

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 that 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 603. Licensees and Reporting

(a) Licensees 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; such report shall only be made 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;

- (7) a violation of a Board order.
- (b) Licensees 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 the occurrence 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, Clinical 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. Severability and Effective Date of Law

Section 701. 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 702. Effective Date.

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

Regulations

Part 1. Standards of Practice.

Subpart 1. Scope & Applicability. *The Standards of Practice apply to all applicants and Licensees. The use of the term Clinical 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. All Final Adverse Actions of disciplinary proceedings shall be reported to the Association of Social Work Boards (ASWB) within two weeks.*

Subpart 4. Client welfare. *Within the context of the specific standards of practice prescribed herein, a Clinical Social Worker shall make reasonable efforts to advance the welfare and best interests of a Client.*

Subpart 5. Self-determination. *Within the context of the specific standards of practice prescribed herein, a Clinical Social Worker shall respect a Client's right to self-determination.*

Subpart 6. Non-Discrimination. *A Clinical 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 Clinical Social Worker is unable to offer services because of a concern about potential discrimination against a Client, student, or supervisee, the Clinical Social Worker shall make an appropriate and timely referral. When a referral is not possible, the Clinical Social Worker shall obtain supervision or Consultation to address the concern.*

Subpart 7. Professional Disclosure Statement. *A Clinical Social Worker shall display at the Clinical Social Worker's primary place of practice or make available as a handout for all Clients a statement that the Client has the right to the following:*

- A. To expect that the Clinical Social Worker has met the minimal qualifications of education, training, and experience required by the law in that jurisdiction;*
- B. To examine public records maintained by the Board which contain the Clinical 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 Clinical Social Worker's practice to the Board;*
- E. To be informed of the cost of professional services and the policies regarding the collection of fees before receiving the services;*

- F. To privacy as allowed by law, and to be informed of the limits of confidentiality;*
- G. Limited access to Client information. A Clinical Social Worker shall make reasonable efforts to limit access to Client information in a Clinical Social Worker's agency to appropriate agency staff whose duties require access.*
- H. Supervision or Consultation. A Clinical Social Worker receiving supervision shall inform the Client that the Clinical Social Worker may be reviewing the Client's case with the Clinical Social Worker's supervisor or consultant. Upon request, the Clinical 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 Clinical Social Work services; and*
- J. To have access to records as allowed by law, including a copy of any laws that allow access to records.*

Subpart 8. Assessment or Diagnosis. A Clinical Social Worker shall base services on an assessment or Diagnosis. A Clinical Social Worker shall evaluate on an ongoing basis whether the assessment or Diagnosis needs to be reviewed or revised.

Subpart 9. Assessment or Diagnosis instruments. A Clinical Social Worker shall be properly trained in the use of any assessment or diagnostic instrument applied to a Client, and shall inform a Client of its purpose before administering the instrument and, when available, of the results derived therefrom.

Subpart 10. Plan. A Clinical Social Worker shall develop a plan with the Client for services that include goals based on the assessment and/or Diagnosis. A Clinical Social Worker shall evaluate on an ongoing basis whether the plan needs to be reviewed or revised.

Subpart 11. Supervision or Consultation. A Clinical Social Worker shall obtain supervision or engage in Consultation when necessary to serve the best interests of a Client. The possibility of the use of such supervision or Consultation shall be disclosed to the Client at the beginning of treatment. Supervision or Consultation of an anonymous nature (that which does not disclose personally identifiable information about a specific Client) does not require written consent, and is done to assist in the delivery of competent service. When professional judgment determines that supervision or Consultation of a specific nature (that which discloses Client identifiable information) is necessary, such supervision or Consultation requires the written acknowledgement and consent of the Client.

Subpart 12. Informed consent.

A. Clinical Social Workers shall provide services to Clients only in the context of a professional relationship based, when appropriate, on valid informed consent. Clinical 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. Clinical Social Workers shall provide Clients with an opportunity to ask questions.

B. If the Client is a minor or does not have the capacity to provide consent, the Clinical 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 Clinical Social Worker shall discuss with the Client, and or the Client's legal guardian or representative that a referral to other resources may be in the Client's best interests.

D. When undertaking research activities, the Clinical Social Worker shall abide by accepted protocols for protection of human subjects. A Clinical 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 Clinical Social Worker must inform the Client of the Client's right to withdraw from the project at any time.

Subpart 13. Records. *A Clinical Social Worker shall make and maintain records of services provided to a Client. At a minimum, the records shall contain 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 at least for a period of seven years after the last date of service, or for the time period required by federal or state law, if longer. Investigate issues with minors*

Subpart 14. Reports. *A Clinical Social Worker shall complete and submit reports as required by law.*

Subpart 15. Exploitation. *A Clinical Social Worker shall not exploit in any manner the professional relationship with a Client, student, or supervisee for the Clinical Social Worker's emotional, financial, sexual or personal advantage or benefit, nor shall the Clinical Social Worker use the professional relationship with a Client, student, or supervisee to further personal, religious, political or business interests.*

Subpart 16. Termination of services. *A Clinical 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 Clinical Social Worker who anticipates the termination of services shall give reasonable notice to the Client. The Clinical Social Worker shall take reasonable steps to inform the Client of the termination of professional relationship. The Clinical Social Worker shall provide referrals as needed or upon the request of the Client. A Clinical Social Worker shall not terminate a professional relationship for the purpose of beginning personal, religious, political or business interests.*

Part 2. Continuing Competence and Limits of Practice (see Article III)

Subpart 1. Continued competence. A Clinical Social Worker shall take all necessary and reasonable steps to maintain and improve competence in the practice of Clinical Social Work through continued clinical education.

A. Pursuant to Section 309, a Licensee must annually complete at least fifteen (15) hours of approved programs of continuing clinical education.

B. A Program of Continuing Clinical Education must address at least one of the following content areas related to Clinical Social Work practice:

- (1) Theories and concepts of human behavior in the social environment;
- (2) Practice, knowledge, and skills;
- (3) Research, programs, or practice evaluations;
- (4) Management, administration, or social policy;
- (5) Ethics;
- (6) Other areas approved by the Board deemed important and relevant to current Clinical Social Work practice.

C. Continuing Clinical Social Work education hours shall be earned in any of the following program areas:

- (1) Academic course work:
 - (i) Courses and seminars given by an graduate program of Social Work approved by the Board;
 - (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 Clinical Social Work practice;
 - (iii) Graduate 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 Clinical Social Work competence;
- (2) Continuing clinical education presentations of national, international, regional, or sub-regional conferences or association meetings relevant to Clinical Social Work practice.
- (3) Workshops or institutes including Board approved workshops attended at conventions relevant to Clinical Social Work practice.
- (4) Public or private agency staff development programs from Board approved providers that contribute to the enhancement of Clinical 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 Clinical Social Work practice and approved by the Board in advance. Under no circumstances shall more than fifty percent of the hours from this category be acceptable as continuing clinical education for each renewal cycle.

(6) Distance learning (e.g. online courses, correspondence courses, and video tapes, etc) upon approval of the Board, shown to update or enhance Clinical Social Work competence.

(7) Continuing clinical 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 Clinical Education lies with the Board. The Board may determine an Approved Provider of Continuing Clinical Education, after receipt of an application as set forth by the Board, accompanied by an applicable fee, which demonstrates the following:

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

(2) An identified Licensed Clinical 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.

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

E. Provider status shall be reviewed periodically. The Board may refuse to renew provider status of any provider who fails to comply with these rules.

Subpart 2. Limits on practice. A Clinical Social Worker shall limit practice to the permissible scope of practice for the Clinical Social Worker's license and to the individual's level of training, knowledge, and skill.

Subpart 3. Referrals. A Clinical Social Worker shall make a referral to other professionals when the services required are beyond the Clinical Social Worker's training, knowledge, and skill.

Subpart 4. Delegation. A Clinical Social Worker shall not delegate responsibility for the performance of a task by another individual who is not licensed to perform the task or has not developed the competence to perform such task.

Part 3. Relationships with Clients and Former Clients (see Article IV, Section 402)

Subpart 1. Personal Relationships with Clients. A Clinical Social Worker shall not

engage in a personal relationship with a Client that could impair his/her objectivity and professional judgment. When a personal relationship with a Client is unavoidable, the Clinical Social Worker shall take appropriate precautions, such as informed consent, Consultation, or supervision to ensure that objectivity and professional judgment are not impaired.

Subpart 2. Personal Relationships with former Clients. *A Clinical 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 Clinical Social Worker shall continue to consider the best interests of the former Client, and shall not engage in a personal relationship if a reasonable Clinical Social Worker would conclude that the former Client continues to relate to the Clinical Social Worker in his/her professional capacity.*

Subpart 3. Sexual Behavior with a Client. *A Clinical Social Worker shall not sexually harass a Client or engage in or request sexual contact with a Client under any circumstances. A Clinical Social Worker shall not engage in any verbal or physical behavior that a reasonable person would find to be sexually seductive or sexually demeaning. Sexual contact means kissing and hugging of a sexual nature, 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 Clinical Social Worker or the Client.*

Subpart 4. Sexual Behavior with a former Client. *A Clinical Social Worker should not engage in sexual activities or sexual contact with former Clients because of the potential for harm to the Client. If a Clinical Social Worker engages in conduct contrary to this prohibition or claims that an exception to this prohibition is warranted because of extraordinary circumstances, it is the Clinical Social Worker—not the Client—who assumes the full burden of demonstrating that the former Client has not been exploited, coerced, or manipulated, intentionally or unintentionally. Sexual behavior is as defined above in Part 3 Subpart 3 of these regulations.*

Subpart 5. Business Relationship with a Client. *A Clinical Social Worker shall not engage in a business relationship with a Client that could impair his/her objectivity and professional judgment. When a business relationship with a Client is unavoidable, the Clinical Social Worker shall take appropriate precautions, such as informed consent, Consultation, or supervision, to ensure that objectivity and professional judgment are not impaired. Business relationships do not include purchases made by the Clinical Social Worker from a Client who is providing necessary goods or services to the general public, in situations in which it is impracticable to obtain those goods or services from another provider.*

Subpart 6. Business Relationship with a former Client. *A Clinical Social Worker may engage in a business relationship with a former Client who has been notified of the termination of the professional relationship. The Clinical Social Worker shall continue to consider the best interests of the former Client, and shall not engage in a*

business relationship if a reasonable Clinical Social Worker would conclude that the former Client continues to relate to the Social Worker in his/her professional capacity.

Subpart 7. Prior Personal or Business Relationships. *A Clinical Social Worker may engage in a professional relationship with an individual with whom the Clinical Social Worker had a previous personal or business relationship only if a reasonable Clinical Social Worker would conclude that the Clinical Social Worker's objectivity and professional judgment will not be impaired by reason of the previous personal or business relationship.*

Subpart 8. Clinical Social Worker responsibility. *A Clinical 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 Clinical Social Worker for a violation of Part 5, Subparts 1 through 8.*

Subpart 9. Others. *Part 5, Subparts 1 through 9 also apply to a Clinical Social Worker's relationship with students, supervisees, employees of the Clinical Social Worker, family members or significant others of a Client.*

Part 4. Client Confidentiality (see Article V).

Subpart 1. General. *A Clinical Social Worker shall protect all information provided by or obtained about a Client. "Client information" includes the Clinical 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. This consent shall explain to whom the Client information will be disclosed or released and the purpose(s) to which the information will be put and the time-frame for its release.*

Subpart 2. Release of Client information without written consent. *A Clinical 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. Where there is a clear and imminent risk that the Client will inflict serious harm on either the Client or another identified individual, and even then only when it is necessary to avoid the infliction of serious harm, and only to the appropriate authorities and the potential victim;*
- C. The Board duly issues a valid subpoena to the Clinical Social Worker, as permitted by law.*

Subpart 3. Release of Client records without written consent. A Clinical 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 state 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 Clinical 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 Clinical 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 Clinical 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 Clinical Social Worker shall inform the Client of the nature of the Client information to be disclosed or released to the third party payor.

Subpart 7. Client information to remain private. A Clinical Social Worker shall continue to maintain confidentiality of Client information upon termination of the professional relationship including upon the death of the Client in accordance with applicable law. Applicable confidentiality statutes and regulations shall also apply upon the death of the Clinical Social Worker with regard to confidentiality of Client records.

Subpart 8. Recording/Observation. A Clinical 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 5. Conduct (see Article IV).

Subpart 1. Impairment. A Clinical Social Worker shall not practice while impaired by medication, alcohol, drugs, or other chemicals. A Clinical 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 Clinical Social Worker shall not offer medication or controlled substances to a Client, or accept these substances from a Client for personal use or gain. The Clinical Social Worker may accept medication or controlled substances from a Client for purposes of disposal or to monitor use. Under no circumstances shall a Clinical Social Worker offer alcoholic beverages to a Client or accept such from a Client.*

Subpart 3. Investigation. *A Clinical Social Worker shall not interfere with a Board investigation.*

Part 6. Representation to the Public (see Article I, Section 105).

Subpart 1. Required use of license designation. *A Clinical Social Worker shall use the license designation of LCSW, including license number, in all written communications related to Clinical Social Work practice, including any advertising, correspondence, and entries to Client records.*

Subpart 2. Information to Clients or potential Clients. *A Clinical Social Worker shall provide accurate and factual information concerning the Clinical Social Worker's credentials, education, training, and experience upon request from a Client or potential Client. A Clinical Social Worker shall not misrepresent directly or by implication the Clinical 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 Clinical Social Worker shall not misrepresent, directly or by implication, affiliations, purposes, and characteristics of institutions and organizations with which the Clinical 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 Clinical Social Worker shall conspicuously display a current license issued by the Board at the Clinical Social Worker's primary place of practice.*

Part 7. Fees and Billing Practices

Subpart 1. Fees and payments. *A Clinical 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 Clinical 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 Clinical Social Worker shall bill only for services that have been provided. A Clinical Social Worker shall provide only services that are necessary.*

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

Subpart 4. No payment for referrals. *A Clinical Social Worker shall neither accept nor give a commission, rebate, fee split, or other form of remuneration for the referral of a Client.*

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