

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 2140

6
7 H.P. 1520

House of Representatives, March 6, 1986

8 Reported by Representative Brannigan from the Committee on Business
and Commerce. Sent up for concurrence and ordered printed. Approved by
9 the Legislative Council on June 27, 1985.

EDWIN H. PERT, Clerk

10 Reported from the Joint Standing Committee on Business and Commerce
under Joint Rule 19.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT Relating to the Social Worker
18 Registration Law.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 Sec. 1. 32 MRSA §7001, as amended by PL 1983, c.
23 805, §§4 and 5, is repealed.

24 Sec. 2. 32 MRSA §7001-A is enacted to read:

25 §7001-A. Definitions

26 As used in this chapter, unless the context oth-
27 erwise indicates, the following terms have the fol-
28 lowing meanings.

29 1. Accredited educational institution. An "ac-
30 credited educational institution" is an institution
31 accredited by the Council on Social Work Education.

32 2. Board. "Board" is the State Board of Social
33 Worker Registration.

1 3. Clinical setting. A "clinical setting" is a
2 setting where mental disorders are evaluated, pre-
3 vented, diagnosed and treated using psychosocial
4 evaluation.

5 4. Consultation. "Consultation" is regularly
6 scheduled face-to-face case discussion and evaluation
7 focusing on raw data, goals and objectives from the
8 social worker's practice.

9 5. Licensed clinical social worker. A "licensed
10 clinical social worker" is a person who has received
11 a license as a clinical social worker from the board.

12 6. Licensed master social worker. A "licensed
13 master social worker" is a person who has received a
14 license as a master social worker from the board.

15 7. Private practice. "Private practice" is prac-
16 ticing social work on a self-employed basis.

17 8. Psychosocial evaluation. "Psychosocial evalu-
18 ation" includes the determination and examination by
19 social workers of the psychosocial situation of an
20 individual or group related to interpersonal and
21 intrapersonal stress, family background, family in-
22 teraction, living arrangements and socioeconomic
23 problems and treatment, evaluation, plans and goals,
24 including the diagnosis of mental illness and emo-
25 tional disorders for the purpose of treatment and
26 therapeutic intervention, but excluding the diagnosis
27 of organic mental illness or treatment of any illness
28 by organic therapy, to the extent permitted by the
29 licensure provision of this chapter. In the process
30 of making a diagnosis and formulating a treatment
31 plan for mental illness or emotional disorder, the
32 social worker shall assure that the person is exam-
33 ined by a physician and may take into account the
34 physician's opinion in forming the psychosocial eval-
35 uation. When a person has been seen by a physician
36 within 3 months prior to seeking mental health treat-
37 ment, a telephone conversation between that physician
38 and the social worker may be held in lieu of the ex-
39 amination required by this subsection. The medical
40 visit or the telephone conversation shall be
41 documented in the clinical records of the person.

1 9. Social work. "Social work" means engaging in
2 psychosocial evaluation and intervention, including
3 therapy, to the extent permitted by the licensure
4 provisions of this chapter, to effect a change in the
5 feelings, attitudes and behavior of a client, whether
6 an individual, group or community or engaging in com-
7 munity organization, administration and research.

8 Sec. 3. 32 MRSA §7002, first ¶, as amended by PL
9 1983, c. 805, §6, is further amended to read:

10 Notwithstanding the provisions of Title 17-A,
11 section 4-A, any person who ~~represents himself~~ makes
12 a representation to the public as, or uses the titles
13 of, a licensed clinical, licensed master, licensed
14 social worker, social worker, certified, registered
15 or associate social worker, or any abbreviation
16 thereof, without being registered with and holding a
17 current certificate from licensed by the board shall,
18 upon conviction, be punished by a fine of not less
19 than \$50 nor more than \$500 for each offense.

20 Sec. 4. 32 MRSA §7003, as amended by PL 1985, c.
21 199, is repealed.

22 Sec. 5. 32 MRSA §7005, as amended by PL 1979, c.
23 733, §19, is further amended to read:

24 §7005. Communication between social workers and cli-
25 ents

26 Except at the request of, or with the consent of,
27 the client, no person ~~registered~~ licensed under this
28 chapter ~~shall~~ may be required to testify in any civil
29 or criminal action, suit or proceeding at law or in
30 equity respecting any information which he may have
31 acquired in providing social work services to the
32 client in a professional and contractual capacity if
33 that information was necessary to enable him to fur-
34 nish professional social work services to the client.
35 However, when the physical or mental condition of the
36 client is an issue in that action, suit or proceeding
37 or when a court in the exercise of sound discretion
38 deems the disclosure necessary to the proper adminis-
39 tration of justice, no information communicated to,
40 or otherwise learned by, that ~~registered~~ licensed
41 person in connection with the provision of social

1 work services ~~shall~~ may be privileged and disclosure
2 may be required.

3 Nothing in this section ~~shall~~ may prohibit dis-
4 closure by a person ~~registered~~ licensed under this
5 chapter of information concerning a client when that
6 disclosure is required by law and nothing in this
7 section ~~shall~~ may modify or affect the provisions of
8 Title 22, sections 4011 to 4015.

9 Sec. 6. 32 MRSA §7026, as amended by PL 1983, c.
10 812, §252, is further amended to read:

11 §7026. State Board of Social Worker Registration

12 The State Board of Social Worker Registration, as
13 established by Title 5, section 12004, subsection 1,
14 and within the Department of Business, Occupational
15 and Professional Regulation, shall administer this
16 chapter. The board shall consist of 8 ~~7~~ members ap-
17 pointed by the Governor. ~~Four members of the board~~
18 ~~shall be certified social workers, 2 shall be regis-~~
19 ~~tered social workers, one shall be an associate so-~~
20 ~~cial worker~~ Three members of the board shall be li-
21 icensed clinical social workers or licensed master so-
22 cial workers, 2 shall be licensed social workers and
23 there shall be a 2 public member members. Each level
24 of licensure shall be represented on the board. In
25 addition, board members shall meet the qualifications
26 required under section 7027.

27 Appointments shall be for 3-year terms, except
28 that no more than 3 members' terms may expire in any
29 one calendar year and appointments for terms of less
30 than 3 years may be made in order to comply with this
31 limitation. No person may be eligible to serve more
32 than 3 ~~2~~ full consecutive terms, provided that for
33 this purpose only a period actually served which ex-
34 ceeds 1/2 of the 3-year term shall be deemed a full
35 term. Upon expiration of a member's term, he shall
36 serve until his successor is qualified and appointed.
37 The successor's term shall be 3 years from the date
38 of the expiration, regardless of the date of his ap-
39 pointment. Any vacancy occurring prior to the expi-
40 ration of the specified term shall be filled by ap-
41 pointment for the unexpired term.

1 Prior to the filling of any vacancies, the Govern-
2 nor may solicit recommendations of candidates from
3 the Maine Chapter of the National Association of So-
4 cial Workers and such other social welfare organiza-
5 tions as he deems appropriate.

6 Sec. 7. 32 MRSA §7027, as repealed and replaced
7 by PL 1983, c. 413, §223, is amended to read:

8 §7027. Qualifications

9 Members of the board shall be residents of this
10 State, and shall be trustworthy and competent to ful-
11 fill the responsibilities imposed by this chapter.
12 Each board member other than the public ~~member~~
13 ~~members~~ shall have been engaged in the active prac-
14 tice of social work as ~~certified, registered or as-~~
15 ~~sociate social workers, respectively licensed clinical,~~
16 ~~licensed master or licensed social workers or~~
17 ~~their equivalents,~~ for not less than 5 years prior to
18 appointment.

19 The Governor may remove any member for cause.

20 Sec. 8. 32 MRSA §7029, as amended by PL 1983, c.
21 413, §224, is further amended to read:

22 §7029. Organization and meetings

23 The board shall annually elect a chairman, ~~vice-~~
24 ~~chairman and secretary-treasurer and secretary~~ from
25 its membership. The ~~secretary-treasurer~~ secretary
26 shall keep full and complete records of its proceed-
27 ings and accounts, which shall be open to public in-
28 spection at all reasonable times.

29 The board shall meet at least once a year to con-
30 duct its business and elect its officers. Additional
31 meetings shall be held as necessary to conduct the
32 business of the board, and may be convened at the
33 call of the chairman or a majority of the board mem-
34 bers. ~~Five~~ Four members of the board shall consti-
35 tute a quorum for the transaction of business.

36 The board shall adopt a seal for its use which
37 shall remain in the custody of the
38 secretary-treasurer. The seal and records shall be

1 kept at the Department of Business, Occupational and
2 Professional Regulation.

3 Sec. 9. 32 MRSA §7051, as amended by PL 1983, c.
4 805, §8, is further amended to read:

5 §7051. License required

6 In order to safeguard the life, health and wel-
7 fare of the people of this State, any person practic-
8 ing or offering to practice as a ~~clinical, certified,~~
9 ~~registered or associate social worker~~ licensed clinical,
10 licensed master or licensed social worker shall
11 be required to submit evidence that he is qualified
12 to so practice and shall be ~~registered~~ licensed as
13 provided in this subchapter.

14 The board may grant conditional licenses to any
15 person eligible to take the examination for licensure
16 while waiting to sit for the examination or to any
17 person who is waiting to retake the examination ac-
18 ording to rules issued by the board.

19 Sec. 10. 32 MRSA §7052, as amended by PL 1983,
20 c. 805, §9, is repealed.

21 Sec. 11. 32 MRSA §7053, as repealed and replaced
22 by PL 1983, c. 805, §10, is amended to read:

23 §7053. Qualifications

24 To be eligible for a license to practice as a
25 ~~clinical social worker and for certification as a~~
26 ~~certified social worker, registered social worker or~~
27 ~~an associate social worker~~ social work at any level,
28 an applicant shall be at least 18 years of age ~~and~~ a
29 ~~resident of this State~~ and shall satisfactorily pass
30 any examination as the board may prescribe by its
31 rules. Each applicant shall demonstrate ~~that he is~~
32 ~~trustworthy and competent~~ trustworthiness and
33 competence to engage in the practice of social work
34 in such a manner as to safeguard the interests of the
35 public.

36 The following shall be considered as minimum evi-
37 dence satisfactory to the board that an applicant is
38 qualified for ~~registration and certification~~ as a

1 clinical, certified, registered or associate social
2 worker, respectively licensure under this chapter.

3 1. Licensed clinical social worker. As a li-
4 censed clinical social worker, an applicant shall
5 have received either a masters or doctoral degree in
6 social work or social welfare from an accredited edu-
7 cational institution, in a clinical concentration and
8 shall have subsequently completed 2 years of
9 supervised social work experience with 96 hours of
10 consultation in a clinical setting or shall have re-
11 ceived a masters or doctoral degree in social work in
12 a nonclinical concentration from an accredited educa-
13 tional institution and have subsequently completed 4
14 years of social work experience with 192 hours of
15 consultation in a clinical setting, shall have demon-
16 strated to the satisfaction of the board adherence to
17 the ethics of the social work profession and shall
18 have successfully completed the examination pre-
19 scribed by the board. The board shall issue rules de-
20 fining the clinical experience required for this lev-
21 el of licensure.

22 2. Licensed master social worker. As a
23 ~~certified~~ licensed master social worker, an applicant
24 shall have received either a masters or doctoral de-
25 gree in social work or social welfare from an accred-
26 ited educational institution, shall have demonstrated
27 to the satisfaction of the board adherence to the
28 ethics of the social work profession and shall have
29 successfully completed the ~~examinations~~ examination
30 prescribed by the board. After meeting these qualifi-
31 cations, the applicant shall receive a "licensed
32 master social worker, nonclinical" license. In addi-
33 tion, any person wishing to practice social work in a
34 clinical setting shall receive a "licensed master so-
35 cial worker, conditional" license. A person holding a
36 conditional license shall receive a "licensed master
37 social worker, clinical" license after 2 years of ex-
38 perience with individual consultation of 4 hours a
39 month.

40 3. Licensed social worker. As a ~~registered~~
41 licensed social worker, an applicant shall have re-
42 ceived a bachelor's degree in social work or social
43 welfare from an accredited educational institution,
44 shall have been employed in social work for a period

1 of at least one year subsequent to the receipt of a
2 bachelor's degree, shall have demonstrated to the
3 satisfaction of the board adherence to the ethics of
4 the social worker profession and shall have success-
5 fully completed the examination prescribed by the
6 board.

7 4. Associate social worker. As an associate so-
8 cial worker, an applicant shall have been employed in
9 social work for not less than 6 years, or shall have
10 received a bachelor's degree from an accredited edu-
11 cational institution and shall have been employed in
12 social work for not less than 2 years, shall have
13 demonstrated to the satisfaction of the board adher-
14 ence to the ethics of the social work profession and
15 shall have successfully completed the examination
16 prescribed by the board.

17 Any person having the necessary qualifications
18 prescribed in this chapter to entitle him to
19 registration licensure as a licensed clinical, certi-
20 fied, registered or associate social worker licensed
21 master or licensed social worker shall be eligible
22 for that registration license though he may not be
23 practicing his profession at the time of making the
24 application.

25 Sec. 12. 32 MRSA §7053-A is enacted to read:

26 §7053-A. Functions

27 No social worker at any level may authorize or
28 diagnose organic mental illness or treat any illness
29 by organic therapy.

30 1. Licensed master social worker. Any licensed
31 master social worker may:

32 A. Engage in administration, research, consulta-
33 tion, social planning and teaching related to the
34 functions in this section; and

35 B. Perform all the functions of a social worker.

36 In addition to paragraphs A and B, a person holding a
37 "licensed master social worker, conditional" license
38 or a person holding a "licensed master social worker,

1 clinical" license may engage in psychosocial evalua-
2 tion, including diagnosis and treatment of mental
3 illness and emotional disorders.

4 A person holding a "licensed master social worker,
5 clinical" license may provide clinical consultation
6 to licensed master social workers holding conditional
7 licenses, licensed social workers, social work stu-
8 dents, other professionals practicing related profes-
9 sions and paraprofessionals engaging in related ac-
10 tivities.

11 A licensed master social worker may not engage in
12 private practice. A licensed master social worker
13 with a conditional license must receive individual
14 consultation 4 hours a month while practicing social
15 work in a clinical setting.

16 2. Licensed clinical social worker. A licensed
17 clinical social worker may:

18 A. Practice social work in a clinical setting
19 without supervision;

20 B. Engage in psychosocial evaluation, including
21 diagnosis and treatment of mental illness and
22 emotional disorders;

23 C. Engage in the private practice of social
24 work;

25 D. Perform all the functions of a licensed
26 master social worker; and

27 E. Engage in the clinical consultation of li-
28 icensed master social workers for the purpose of
29 preparing the licensed master social worker for
30 eventual licensed clinical social workers' status
31 or regular licensure. This includes responsibili-
32 ty for ongoing training and evaluation. The li-
33 icensed clinical social worker has an obligation
34 to assess the licensed master social worker's
35 competence and ethics and share this assessment
36 with the Board of Social Work Registration at the
37 time the licensed master social worker applies
38 for the licensed clinical level.

1 3. Licensed social worker. A licensed social
2 worker may:

3 A. Engage in psychosocial evaluation, excluding
4 the diagnosis and treatment of mental illness,
5 and conduct basic data gathering of records and
6 specific life issues of individuals, groups and
7 families, assess this data and formulate and im-
8 plement a plan to achieve specific goals related
9 to specific life issues;

10 B. Serve as an advocate for clients or groups of
11 clients for the purpose of achieving specific
12 goals relating to specific life issues;

13 C. Refer clients to other professional services;
14 and

15 D. Plan, manage, direct or coordinate social
16 services.

17 A licensed social worker shall not engage in the pri-
18 vate practice of social work, diagnose mental illness
19 and emotional disorders or provide psychotherapy. A
20 licensed social worker with less than 2 years' expe-
21 rience must receive consultation from either a li-
22 icensed master social worker or a licensed clinical
23 social worker in a manner to be prescribed by the
24 board on a group or individual basis 4 hours a month.
25 Licensed social workers in institutions supervised by
26 the Department of Human Services shall receive con-
27 sultation on a quarterly basis in a manner prescribed
28 by the department. The department staff giving con-
29 sultation must be on the master or clinical level by
30 January 1, 1993.

31 Sec. 13. 32 MRSA §7054, as amended by PL 1983,
32 c. 805, §11, is repealed.

33 Sec. 14. 32 MRSA §7054-A is enacted to read:

34 §7054-A. Licensure without examination

35 A person holding a certificate of registration or
36 license under the laws of another state, territory or
37 possession of the United States, the District of Co-
38 lumbia or of any foreign country, which is the equiv-

1 alent of a license as a licensed clinical, licensed
2 master or licensed social worker under this chapter
3 who, in the opinion of the board, meets the require-
4 ments of this chapter, based upon verified evidence
5 may, upon application, be licensed without further
6 examination.

7 Any person registered by the board prior to the
8 effective date of this section, under former section
9 7054, as a registered social worker or an associate
10 social worker shall automatically be licensed as a
11 "licensed social worker" without further examination.

12 Any person certified by the board prior to the
13 effective date of this section, under former section
14 7054, as a certified social worker shall automatical-
15 ly be licensed as a "licensed master social worker"
16 without further examination and any person licensed
17 as a "licensed clinical social worker" prior to the
18 effective date of this section, under former section
19 7054, shall remain licensed as a "licensed clinical
20 social worker" without further examination.

21 Persons not eligible for licensure after the ef-
22 fective date of this section, but who are employed to
23 do social work on the effective date of this section,
24 must register with the board and will be granted a
25 provisional license. A person with a provisional li-
26 cence and a bachelor's degree who has been employed
27 for 2 years doing social work must successfully com-
28 plete the examination for licensure as a social work-
29 er within the time prescribed by the board. Any other
30 person with a provisional license who has been em-
31 ployed for 6 years doing social work must successful-
32 ly complete the examination for licensure as a social
33 worker within the time prescribed by the board.

34 Sec. 15. 32 MRSA §7055, as enacted by PL 1977,
35 c. 673, §3, is repealed.

36 Sec. 16. 32 MRSA §7056, as amended by PL 1983,
37 c. 805, §12, is further amended to read:

38 §7056. Application; fees

39 Application for ~~registration and certification~~
40 license as a licensed clinical, ~~certified,~~ registered

1 ~~or associate licensed master or licensed~~ social work-
2 er shall be on a form prescribed and furnished by the
3 board. An application fee and an examination fee may
4 be established by the board in amounts which are rea-
5 sonable and necessary for their respective purposes.
6 The registration fee for an associate social worker
7 shall be established by the board in an amount not to
8 exceed \$25. All fees shall accompany the application.

9 The registration license fee for a registered
10 licensed social worker shall be established by the
11 board in an amount not to exceed \$50. All fees shall
12 accompany the application.

13 The registration license fee for a certified li-
14 censed master social worker shall be established by
15 the board in an amount not to exceed \$75. All fees
16 shall accompany the application.

17 The license fee for a licensed clinical social
18 worker shall be established by the board in an amount
19 not to exceed \$125. All fees shall accompany the ap-
20 plication.

21 Should ~~if~~ the board ~~deny~~ denies the issuance of a
22 license ~~or certificate of registration~~ to any appli-
23 cant, the application and examination fees shall be
24 nonrefundable.

25 Sec. 17. 32 MRSA §7059, as repealed and replaced
26 by PL 1983, c. 413, §229, is amended to read:

27 §7059. Suspension, revocation and reissuance

28 1. Board or Administrative Court revocation.
29 The board may suspend or revoke a certificate of
30 registration license pursuant to Title 5, section
31 10004. In addition, the board may refuse to issue or
32 renew or the Administrative Court may suspend, revoke
33 or refuse to renew a certificate of registration
34 license on any of the following grounds:

35 A. The practice of fraud or deceit in obtaining
36 a certificate of registration license under this
37 chapter or in connection with service rendered as
38 a certified, registered or associate licensed
39 clinical, licensed master or licensed social
40 worker;

- 1 B. Addiction, as confirmed by medical findings,
2 to the use of alcohol or other drugs, which has
3 resulted in the ~~certified, registered or~~
4 ~~associate licensed clinical, licensed master or~~
5 ~~licensed social worker~~ being unable to perform
6 his duties or perform those duties in a manner
7 which would not endanger the health or safety of
8 the clients to be served;
- 9 C. A medical finding of mental incompetency;
- 10 D. Aiding or abetting a person not duly ~~certi-~~
11 ~~fied as a certified, registered or associate se-~~
12 ~~cial worker~~ licensed in representing himself as a
13 ~~certified, registered or associate licensed clin-~~
14 ~~ical, licensed master or licensed social worker~~
15 in this State;
- 16 E. Any gross negligence, incompetency or miscon-
17 duct in the practice of professional social work;
- 18 F. Subject to the limitations of Title 5, chap-
19 ter 341, conviction of a Class A, B or C crime or
20 of a crime which, if committed in this State,
21 would be punishable by one year or more of im-
22 prisonment; or
- 23 G. Violation of any provision of this chapter or
24 any rule of the board.

25 Any person may register a complaint against any
26 ~~certified, registered or associate social worker li-~~
27 ~~censed at any level~~. Any complaints shall be in writ-
28 ing, shall be sworn to by the person making them and
29 shall be filed with the secretary of the board.

30 The board, for reasons it may deem sufficient,
31 may reissue a ~~certificate of registration as a certi-~~
32 ~~fied, registered or associate social worker license~~
33 to any person whose ~~certificate of registration~~
34 ~~license~~ has been revoked, provided that 5 or more
35 members of the board vote in favor of that reissu-
36 ance. A new ~~certificate of registration as a certi-~~
37 ~~fied, registered or associate social worker, license~~
38 to replace any ~~certificate license~~ revoked, lost, de-
39 stroyed or mutilated, may be issued, subject to the
40 rules of the board. A charge of \$3 shall be made for
41 that issuance.

1 Sec. 18. 32 MRSA §7060, as amended by PL 1983,
2 c. 413, §§230 and 231, is further amended to read:

3 §7060. Expiration and renewals

4 Certificates of registration Licenses shall ex-
5 pire biennially on December 31st or at such other
6 times as the Commissioner of Business, Occupational
7 and Professional Regulation may designate. Biennial
8 fees for renewal of registration license shall be set
9 by the board in an amount not to exceed \$50 and shall
10 be due and payable biennially on or before the first
11 day of January. Every 2nd renewal shall be contingent
12 upon evidence of participation in a continuing pro-
13 fessional education course or program as approved by
14 the board. Registration A license may be renewed up
15 to 90 days after the date of expiration upon payment
16 of a late fee of \$10 in addition to the renewal fee.
17 Any person who submits an application for renewal
18 more than 90 days after the renewal date shall be
19 subject to all requirements governing new applicants
20 under this chapter, except that the board may in its
21 discretion, giving due consideration to the protec-
22 tion of the public, waive examination if the renewal
23 application is made within 2 years from the date of
24 the expiration.

25 The board shall provide by regulation that a per-
26 son registered licensed under this chapter may, upon
27 written request, be placed in an inactive status.
28 Reasons for granting inactive status shall include,
29 but not be limited to, changes in occupation, resi-
30 dence and health. The payment of fees shall be sus-
31 pended during the term of inactive status. A person
32 may be reinstated to active status by notifying the
33 commissioner and by paying the fees for the year of
34 reinstatement.

35 The board shall notify every person registered
36 licensed under this chapter of the date of expiration
37 of his license and the fee required for its renewal
38 for a 2-year period. The notice shall be mailed to
39 the person's last known address at least 30 days in
40 advance of the expiration date of the registration
41 license.

42 Sec. 19. 32 MRSA §7063 is enacted to read:

