

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 258

H.P. 213

House of Representatives, January 23, 2003

**An Act Regarding Social Worker and Human Service Provider
Licensure**

(EMERGENCY)

Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LAVERRIERE-BOUCHER of Biddeford.
Cosponsored by Senator BROMLEY of Cumberland and
Representatives: DUDLEY of Portland, HUTTON of Bowdoinham, KANE of Saco,
PINGREE of North Haven, SIMPSON of Auburn, SUSLOVIC of Portland, Senator: HATCH
of Somerset.

clients to other professional services; and planning, managing,
directing and coordinating social services for clients.

Sec. A-5. 32 MRSA §7002, first ¶, as repealed and replaced by
PL 1985, c. 736, §3, is amended to read:

Notwithstanding Title 17-A, section 4-A, any person who
makes a representation to the public or uses the title of social
worker, unless licensed by the board, as a licensed clinical
social worker, licensed master social worker, certified social
worker or a licensed social worker, ~~shall--be~~ or who makes a
representation to the public or uses the title of licensed human
service provider, unless licensed by the board is subject to a
fine of not less than \$50 nor more than \$500. Any person
performing the functions of a social worker or licensed human
service provider as a part of a profession or occupation or in a
voluntary capacity is not subject to this section.

Sec. A-6. 32 MRSA §7004, as amended by PL 1979, c. 96, §6, is
further amended to read:

§7004. Services to minors for drug abuse

Any person certified under this chapter who renders social
work or human service provider services to a minor for problems
associated with the abuse of drugs or alcohol is under no
obligation to obtain the consent of that minor's parent or
guardian or to inform that parent or guardian of the treatment.
Nothing in this section shall ~~may~~ be construed so as to prohibit
the licensed person rendering this treatment from informing that
parent or guardian. For purposes of this section, "abuse of
drugs" means the use of drugs solely for their stimulant,
depressant or hallucinogenic effect upon the higher functions of
the central nervous system and not as a therapeutic agent
recommended by a practitioner in the course of medical treatment.

Sec. A-7. 32 MRSA §7005, as amended by PL 2001, c. 345, §9,
is further amended to read:

**§7005. Communication between social workers or licensed human
service providers and clients**

Except at the request of, or with the consent of, the
client, ~~ne~~ a person licensed under this chapter may not be
required to testify in any civil or criminal action, suit or
proceeding at law or in equity respecting any information ~~which~~
he that the person may have acquired in providing social work or
human service provider services to the client in a professional
and contractual capacity if that information was necessary to
enable him to furnish professional social work services to the

2 client. However, when the physical or mental condition of the
4 client is an issue in that action, suit or proceeding or when a
6 court in the exercise of sound discretion ~~deems~~ determines the
8 disclosure necessary to the proper administration of justice, no
information communicated to, or otherwise learned by, that
licensed person in connection with the provision of social work
or human service provider services may be privileged and
disclosure may be required.

10 Nothing in this section may prohibit disclosure by a person
12 licensed under this chapter of information concerning a client
14 when that disclosure is required by law and nothing in this
section may modify or affect the provisions of Title 22, sections
4011-A to 4015.

16 **Sec. A-8. 32 MRSA c. 83, sub-c. 2** is amended by repealing the
18 subchapter headnote and enacting the following in its place:

20 **SUBCHAPTER 2**

22 **STATE BOARD OF SOCIAL WORKER AND HUMAN
SERVICE PROVIDER LICENSURE**

24 **Sec. A-9. 32 MRSA §7026**, as amended by PL 1993, c. 600, Pt.
26 A, §258, is further amended to read:

28 **§7026. State Board of Social Worker and Human Service Provider
Licensure**

30 The State Board of Social Worker and Human Service Provider
32 Licensure, as established by Title 5, section 12004-A, subsection
38, within the Department of Professional and Financial
Regulation, shall administer this chapter. The board shall
34 ~~consist~~ consists of 7 10 members appointed by the Governor.
36 Three members of the board shall ~~must~~ be licensed clinical social
workers, licensed master social workers or certified social
38 workers - independent practice, at least one of whom must be
practicing social work in a nonclinical setting; 2 shall ~~must~~ be
40 licensed social workers; 3 must be licensed human service
42 providers; and there shall ~~must~~ be 2 public members. Each level
of licensure shall ~~must~~ be represented on the board. In addition,
44 board members shall who are licensed to provide social work
services must meet the qualifications required under section 7027.

46 Appointments are for 3-year terms. Appointments of members
must comply with section 60.

48 **Sec. A-10. 32 MRSA §7027**, as amended by PL 1985, c. 736, §7,
50 is further amended to read:

2
3 **§7027. Qualifications**

4 Members of the board ~~shall~~ must be residents of this State,
5 and ~~shall~~ must be trustworthy and competent to fulfill the
6 responsibilities imposed by this chapter. Each board member other
7 than the public members ~~shall~~ and the licensed human service
8 providers must have been engaged in the active practice of social
9 work as a certified social worker - independent practice or
10 licensed clinical, licensed master or licensed social worker for
11 not less than 5 years prior to appointment.

12 The Governor may remove any member for cause.

13 **Sec. A-11. 32 MRSA c. 83, sub-c. 3** is amended by repealing the
14 subchapter headnote and enacting the following in its place:

15
16 **SUBCHAPTER 3**

17
18 **LICENSURE**

19
20 **Sec. A-12. 32 MRSA §7051**, as amended by PL 1985, c. 736, §9,
21 is further amended to read:

22
23 **§7051. Social worker license required**

24
25 In order to safeguard the life, health and welfare of the
26 people of this State, any person practicing or offering to
27 practice as a certified social worker - independent practice or
28 licensed clinical, licensed master or licensed social worker
29 ~~shall-be~~ is required to submit evidence that ~~he~~ the person is
30 qualified to so practice and shall ~~be-licensed~~ have a license as
31 provided in this subchapter.
32

33 The board may grant a conditional license to any person
34 eligible to take the examination for licensure while waiting to
35 sit for the examination or to any person who is waiting to retake
36 the examination according to rules issued by the board.
37

38 **Sec. A-13. 32 MRSA §7053**, as corrected by RR 2001, c. 1, §41,
39 is amended by repealing and replacing the headnote to read:

40
41 **§7053. Qualifications for social worker licensure**

42
43 **Sec. A-14. 32 MRSA §7053, 2nd ¶**, as amended by PL 1985, c.
44 736, §11, is further amended to read:

45 The following ~~shall~~ must be considered as minimum evidence
46 satisfactory to the board that an applicant is qualified for
47 licensure as a social worker under this chapter.
48
49
50

2 **Sec. A-15. 32 MRSA §7053-A**, as amended by PL 2001, c. 316,
§4, is further amended by repealing and replacing the headnote to
read:

4
6 **§7053-A. Functions of licensed social worker**

8 **Sec. A-16. 32 MRSA §7053-A, sub-§4**, as amended by PL 2001, c.
316, §4, is further amended to read:

10 **4. Licensed social worker.** A licensed social worker may:

12 A. Engage in psychosocial evaluation, excluding the
diagnosis and treatment of mental illness, and conduct basic
14 data gathering of records and specific life issues of
individuals, groups and families, assess this data and
16 formulate and implement a plan to achieve specific goals
related to specific life issues;

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

22 C. Refer clients to other professional services;

24 D. Plan, manage, direct or coordinate social services; and

26 E. Participate in training and education of social work
28 students from an accredited institution or an educational
institution in candidacy for accreditation with the Council
30 on Social Work Education or a successor organization and
supervise other licensed social workers.

32 A licensed social worker ~~shall~~ may not engage in the private
34 practice of social work, diagnose mental illness and emotional
disorders or provide psychotherapy. A licensed social worker with
36 less than 2 years' experience must receive consultation from
either a licensed master social worker, a licensed clinical
38 social worker ~~or~~, a certified social worker - independent
practice or a licensed social worker with 5 years' experience in
40 a manner to be prescribed by the board on a group or individual
basis 4 hours a month. Licensed social workers in health care
42 facilities licensed by the Department of Human Services ~~shall~~
must receive consultation on a quarterly basis in a manner
44 prescribed by the department. The department staff giving
consultation to intermediate care facilities must be on the
46 master or clinical level by January 1, 1993.

48 Notwithstanding the provisions of this subsection, licensed
social workers employed by the Department of Human Services ~~shall~~

2 must receive consultation in a manner to be prescribed by the
department.

4 State agencies employing social workers ~~shall-be~~ are responsible
6 for providing ~~supervision~~ consultation necessary for those social
workers to maintain their licenses.

8 **Sec. A-17. 32 MRSA §7054-A**, as amended by PL 1989, c. 296,
10 §2, is further amended to read:

12 **§7054-A. Licensure as licensed social worker without examination**

14 A person holding a certificate of registration or license
16 under the laws of another state, territory or possession of the
18 United States, the District of Columbia or of any foreign
20 country, which is the equivalent of a license as a licensed
clinical, licensed master or licensed social worker under this
chapter who, in the opinion of the board, meets the requirements
of this chapter, based upon verified evidence may, upon
application, be licensed without further examination.

22 Any person registered by the board prior to the effective
24 date of this section, under former section 7054, as a registered
26 social worker or an associate social worker ~~shall~~ may
automatically be licensed as a "licensed social worker" without
further examination.

28 Any person certified by the board prior to the effective
30 date of this section or under former section 7054 as a certified
32 social worker and who engages in the independent practice of
34 social work pursuant to section 7052 ~~shall~~ may be licensed as a
36 "certified social worker - independent practice" and may continue
to practice social work as previously authorized. This person
has the option to be licensed as a "licensed master social
worker" without further examination if the person has a ~~masters'~~
master's degree in social work or social welfare.

38 Any other person certified by the board prior to the
40 effective date of this section or under former section 7054 as a
42 certified social worker ~~shall~~ may automatically be licensed as a
44 "licensed master social worker" without further examination and
46 any person licensed as a "licensed clinical social worker" prior
to the effective date of this section, under former section 7054,
shall may remain licensed as a "licensed clinical social worker"
without further examination.

48 Any person having received a ~~masters~~ master's or doctoral
50 degree in social work or social welfare from an accredited
educational institution and having completed 5 years' experience
prior to January 1, 1987, with 3 ~~years~~ years' experience or its

2 equivalent having been gained within 5 years of the date of
application for licensure, shall may be automatically licensed as
4 a "licensed master social worker."

6 **Sec. A-18. 32 MRSA §7054-C** is enacted to read:

8 **§7054-C. Human service provider licensure**

10 The profession of licensed human service provider is
subject to the provisions of this section.

12 1. **Qualifications.** To be eligible for a license to
practice as a human service provider, an applicant must be at
14 least 18 years of age and must satisfactorily pass any
examination as the board may prescribe by its rules. Each
16 applicant must demonstrate trustworthiness and competence to
engage in the practice of human service work in a manner that
18 safeguards the interests of the public.

20 The following is considered as minimum evidence is satisfactory
to the board that an applicant is qualified for licensure under
22 this chapter as a human service provider:

24 A. A bachelor's degree in social work, social welfare,
sociology, psychology, human and behavioral sciences, social
26 and behavioral sciences or related human or social science
field from an accredited educational institution;

28 B. Demonstration to the satisfaction of the board of
30 adherence to the ethics of the human service profession; and

32 C. Successful completion of the examination required by the
board.

34 2. **Functions; restrictions.** A licensed human service
36 provider may engage in data gathering assessment and intervention
to the extent permitted by this chapter to effect a change in the
38 client system and may engage in community organization, social
planning, administration and research and may otherwise perform
40 the functions of a licensed human service provider as defined in
section 7001-A, subsection 6-A. A licensed human service
42 provider may not engage in the private practice of human service
work. A licensed human service provider may not diagnose mental
44 illness or emotional disorders or provide psychotherapy.

46 3. **Consultation.** A licensed human service provider with
less than 2 years' experience must receive consultation from a
48 licensed master social worker, a licensed clinical social worker
or a certified social worker - independent practice, licensed
50 social worker with 5 years' experience or a licensed human

2 service provider with 2 years' experience in a manner to be
3 prescribed by the board on a group or individual basis for 4
4 hours per month. A licensed human service provider who works in
5 health care facilities licensed by the Department of Human
6 Services must receive consultation on a quarterly basis in a
7 manner prescribed by the department. Persons providing
8 consultation to licensed human service providers who work in
9 intermediate care facilities must be licensed as licensed master
10 social workers or licensed clinical social workers. State
11 agencies employing licensed human service providers shall provide
12 the type of consultation necessary for those workers to maintain
13 their licenses.

14 4. Rules. The board shall adopt rules to implement this
15 section. Rules adopted pursuant to this subsection are routine
16 technical rules as defined in Title 5, chapter 375, subchapter
17 2-A.

18 **Sec. A-19. 32 MRSA §7056**, as amended by PL 1987, c. 113, §2,
19 is further amended to read:

20 **§7056. Application; fees**

21 Application for license as a licensed clinical, licensed
22 master or licensed social worker ~~shall~~ or licensed human service
23 provider must be on a form prescribed and furnished by the board.
24 An application fee and an examination fee may be established by
25 the board in amounts ~~which~~ that are reasonable and necessary for
26 their respective purposes. All fees ~~shall~~ must accompany the
27 application.

28 The license fee for a licensed social worker ~~shall~~ or
29 licensed human service provider must be established by the board
30 in an amount not to exceed \$70.

31 The license fee for a licensed master social worker ~~shall~~
32 must be established by the board in an amount not to exceed \$110.

33 The license fee for a licensed clinical social worker ~~shall~~
34 must be established by the board in an amount not to exceed \$175.

35 Fees for initial and renewal licenses ~~shall~~ must be set so
36 that total fee receipts do not exceed the amount required to
37 cover properly the expense of performing the duties imposed upon
38 the board.

39 If the board denies the issuance of a license to any
40 applicant, the application and examination fees ~~shall--be~~ are
41 nonrefundable.

2 **Sec. A-20. 32 MRSA §7059**, as amended by PL 1999, c. 547, Pt.
B, §78 and affected by §80, is further amended to read:

4 **§7059. Suspension, revocation and reissuance**

6 **1. Board or District Court revocation.** The board may
suspend or revoke a license pursuant to Title 5, section 10004.
8 In addition, the board may refuse to issue or renew or the
District Court may suspend, revoke or refuse to renew a license
10 on any of the following grounds:

12 A. The practice of fraud or deceit in obtaining a license
under this chapter or in connection with service rendered as
14 a licensed clinical, licensed master or licensed social
worker ~~or~~, certified social worker - independent practice or
16 licensed human service provider;

18 B. Addiction, as confirmed by medical findings, to the use
of alcohol or other drugs, which has resulted in the
20 licensed clinical, licensed master or licensed social worker
~~or~~, certified social worker - independent practice or
22 licensed human service provider being unable to perform his
duties or perform those duties in a manner ~~which~~ that would
24 not endanger the health or safety of the clients to be
served;

26 C. A medical finding of mental incompetency;

28 D. Aiding or abetting a person not duly licensed in
representing ~~himself~~ that person as a licensed clinical,
30 licensed master or licensed social worker ~~or~~, certified
social worker - independent practice or licensed human
32 service provider in this State;

34 E. Any gross negligence, incompetency or misconduct in the
36 practice of professional social work or human service work;

38 F. Subject to the limitations of Title 5, chapter 341,
conviction of a Class A, B or C crime or of a crime ~~which~~
40 that, if committed in this State, would be punishable by one
year or more of imprisonment; or

42 G. Violation of any provision of this chapter or any rule
44 of the board.

46 Any person may register a complaint against any social
worker licensed at any level or a licensed human service
48 provider. Any complaints shall ~~must~~ be in writing, shall ~~must~~
sworn to by the person making them and shall ~~must~~ be filed with
50 the secretary of the board.

- 2 (14) A speech therapist;
- 4 (15) An occupational therapist;
- 6 (16) A mental health professional;
- 8 (17) A law enforcement official;
- 10 (18) A coroner;
- 12 (19) Emergency room personnel;
- 14 (20) An ambulance attendant;
- 16 (21) An emergency medical technician; or
- 18 (22) Unlicensed assistive personnel; or

20 **Sec. B-3. 22 MRSA §4011-A, sub-§1, ¶A**, as enacted by PL 2001,
c. 345, §5, is amended to read:

22 A. When acting in a professional capacity:

- 24 (1) An allopathic or osteopathic physician, resident or
26 intern;
- 28 (2) An emergency medical services person;
- 30 (3) A medical examiner;
- 32 (4) A physician's assistant;
- 34 (5) A dentist;
- 36 (6) A dental hygienist;
- 38 (7) A dental assistant;
- 40 (8) A chiropractor;
- 42 (9) A podiatrist;
- 44 (10) A registered or licensed practical nurse;
- 46 (11) A teacher;
- 48 (12) A guidance counselor;
- 50 (13) A school official;

- 2 (14) A children's summer camp administrator or
counselor;
- 4 (15) A social worker or licensed human service
provider;
- 6 (16) A court-appointed special advocate or guardian ad
8 litem for the child;
- 10 (17) A homemaker;
- 12 (18) A home health aide;
- 14 (19) A medical or social service worker;
- 16 (20) A psychologist;
- 18 (21) Child care personnel;
- 20 (22) A mental health professional;
- 22 (23) A law enforcement official;
- 24 (24) A state or municipal fire inspector;
- 26 (25) A municipal code enforcement official;
- 28 (26) A commercial film and photographic print
processor;
- 30 (27) A clergy member acquiring the information as a
32 result of clerical professional work except for
information received during confidential
34 communications; or
- 36 (28) A chair of a professional licensing board that
has jurisdiction over mandated reporters; or b

38 **Emergency clause.** In view of the emergency cited in the
40 preamble, this Act takes effect when approved.

42
44

SUMMARY

46 This bill creates a new category of licensure, a licensed
human service provider, under a renamed State Board of Social
48 Worker and Human Service Provider Licensure. The bill makes
necessary changes in social work licensure to accommodate the new
category of licensure. It updates other laws, correcting

2 cross-references and making the new licensed human service providers mandatory reporters of child and adult abuse.