

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

vided that Maine's application to join the International Registration Plan is approved.

Sec. 8. Report. The Office of Policy and Legal Analysis and the Office of Fiscal and Program Review shall conduct a study to determine the comparative costs of truck operations between Maine and the other New England states and the Provinces of New Brunswick and Quebec. A report shall be published to be submitted at the First Regular Session of the 113th Legislature.

Effective January 1, 1986, as indicated.

CHAPTER 736

H.P. 1683 - L.D. 2370

AN ACT Relating to the Social Worker Registration Law.

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

Sec. 1. 32 MRSA §7001, as amended by PL 1983, c. 805, §§4 and 5, is repealed.

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

§7001-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Accredited educational institution. An "accredited educational institution" is an institution accredited by the Council on Social Work Education.

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

3. Certified social worker - independent practice. A "certified social worker - independent practice" is a person who was licensed as a certified social worker and permitted to engage in the independent practice of social work pursuant to section 7052, before January 1, 1985.

4. Clinical setting. A "clinical setting" is a setting where mental disorders are evaluated, pre-

vented, diagnosed and treated using psychosocial evaluation.

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

6. Licensed clinical social worker. A "licensed clinical social worker" is a person who has received a license as a clinical social worker from the board.

7. Licensed master social worker. A "licensed master social worker" is a person who has received a license as a master social worker from the board.

8. Licensed social worker. A "licensed social worker" is a person who has received a license as a licensed social worker from the board.

9. Private practice. "Private practice" is practicing social work on a self-employed basis.

10. Psychosocial evaluation. "Psychosocial evaluation" includes the determination and examination by social workers of the psychosocial situation of an individual or group related to interpersonal and intrapersonal stress, family background, family interaction, living arrangements and socioeconomic problems and treatment, evaluation, plans and goals, including the diagnosis of mental illness and emotional disorders for the purpose of treatment and therapeutic intervention, but excluding the diagnosis of organic mental illness or treatment of any illness by organic therapy, to the extent permitted by the licensure provision of this chapter. In the process of making a diagnosis and formulating a treatment plan for mental illness or emotional disorder, the social worker shall assure, consistent with rules to be promulgated by the board, that the person is examined by a physician and may take into account the physician's opinion in forming the psychosocial evaluation. When a person has been seen by a physician within 3 months prior to seeking mental health treatment, a telephone conversation between that physician and the social worker may be held in lieu of the examination required by this subsection. The medical visit or the telephone conversation shall be documented in the clinical records of the person. This requirement shall apply only in cases where there is a presence of psychopathology. The board shall define standards by rule, in accordance with

the Maine Administrative Procedure Act, Title 5, chapter 375, for implementation of this subsection.

11. Social work. "Social work" means engaging in psychosocial evaluation and intervention, including therapy, to the extent permitted by the licensure provisions of this chapter, to effect a change in the feelings, attitudes and behavior of a client, whether an individual, group or community. "Social work" also means engaging in community organization, social planning, administration and research.

Sec. 3. 32 MRSA §7002, first ¶, as amended by PL 1983, c. 805, §6, is repealed and the following enacted in its place:

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 subject to a fine of not less than \$50 nor more than \$500. Any person performing the functions of a social worker as a part of a profession or occupation or in a voluntary capacity is not subject to this section.

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

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

§7005. Communication between social workers and clients

Except at the request of, or with the consent of, the client, no person ~~registered~~ licensed under this chapter ~~shall~~ may be required to testify in any civil or criminal action, suit or proceeding at law or in equity respecting any information which he may have acquired in providing social work 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 client. However, when the physical or mental condition of the client is an issue in that action, suit or proceeding or when a court in the exercise of sound discretion deems the disclosure necessary to the proper administration of justice, no information communicated to, or otherwise learned by, that ~~registered~~ licensed person in connection with the provision of social work services ~~shall~~ may be privileged and disclosure may be required.

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

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

§7026. State Board of Social Worker Registration

The State Board of Social Worker Registration, as established by Title 5, section 12004, subsection 1, and within the Department of Business, Occupational and Professional Regulation, shall administer this chapter. The board shall consist of ~~8~~ 7 members appointed by the Governor. ~~Four members of the board shall be certified social workers, 2 shall be registered social workers, one shall be an associate social worker~~ Three members of the board shall be licensed clinical social workers, licensed master social workers or certified social workers - independent practice, at least one of whom must be practicing social work in a nonclinical setting; 2 shall be licensed social workers and there shall be a 2 public member members. Each level of licensure shall be represented on the board. In addition, board members shall meet the qualifications required under section 7027.

Appointments shall be for 3-year terms, except that no more than 3 members' terms may expire in any one calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than ~~3~~ 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of the expiration, regardless of the date of his appointment. Any vacancy occurring prior to the expiration of the specified term shall be filled by appointment for the unexpired term.

Prior to the filling of any vacancies, the Governor may solicit recommendations of candidates from the Maine Chapter of the National Association of Social Workers and such other social welfare organizations as he deems appropriate.

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

§7027. Qualifications

Members of the board shall be residents of this State, and shall be trustworthy and competent to fulfill the responsibilities imposed by this chapter. Each board member other than the public member members shall have been engaged in the active practice of social work as ~~certified, registered or associate social workers, respectively,~~ a certified social worker - independent practice or licensed clinical, licensed master or licensed social worker for not less than 5 years prior to appointment.

The Governor may remove any member for cause.

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

§7029. Organization and meetings

The board shall annually elect a chairman, ~~vice-chairman and secretary-treasurer~~ and secretary from its membership. The ~~secretary-treasurer~~ secretary shall keep full and complete records of its proceedings and accounts, which shall be open to public inspection at all reasonable times.

The board shall meet at least once a year to conduct its business and elect its officers. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or a majority of the board members. ~~Five~~ Four members of the board shall constitute a quorum for the transaction of business.

The board shall adopt a seal for its use ~~which shall remain in the custody of the secretary-treasurer.~~ The seal and records shall be kept at the Department of Business, Occupational and Professional Regulation.

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

§7051. License required

In order to safeguard the life, health and welfare of the people of this State, any person practicing or offering to practice as a ~~clinical, certified, registered or associate social worker~~ certified social worker - independent practice or licensed clinical

cal, licensed master or licensed social worker shall be required to submit evidence that he is qualified to so practice and shall be registered licensed as provided in this subchapter.

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

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

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

§7053. Qualifications

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

The following shall be considered as minimum evidence satisfactory to the board that an applicant is qualified for registration and certification as a clinical, certified, registered or associate social worker, respectively licensure under this chapter.

1. Licensed clinical social worker. As a licensed clinical social worker, an applicant shall have received either a masters or doctoral degree in social work or social welfare from an accredited educational institution, in a clinical concentration and shall have subsequently completed 2 years of supervised social work experience with 96 hours of consultation in a clinical setting or shall have received a masters or doctoral degree in social work in a nonclinical concentration from an accredited educational institution and have subsequently completed 4 years of social work experience with 192 hours of consultation in a clinical setting, shall have demonstrated to the satisfaction of the board adherence to the ethics of the social work profession and shall

have successfully completed the examination prescribed by the board. The board shall issue rules, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, defining the clinical experience required for this level of licensure.

2. Licensed master social worker. As a certified licensed master social worker, an applicant shall have received either a masters or doctoral degree in social work or social welfare from an accredited educational institution, shall have demonstrated to the satisfaction of the board adherence to the ethics of the social work profession and shall have successfully completed the examinations examination prescribed by the board. After meeting these qualifications, the applicant shall receive a "licensed master social worker" license. In addition, any person wishing to practice social work in a clinical setting shall receive a "licensed master social worker, conditional" license.

3. Licensed social worker. As a registered licensed social worker, an applicant shall have received a bachelor's degree in social work or social welfare from an accredited educational institution, shall have been employed in social work for a period of at least one year subsequent to the receipt of a bachelor's degree, shall have demonstrated to the satisfaction of the board adherence to the ethics of the social worker profession and shall have successfully completed the examination prescribed by the board. The board shall issue rules, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, by which an individual who has a bachelors' degree in an area other than social work or social welfare may be eligible for a license.

4. Associate social worker. As an associate social worker, an applicant shall have been employed in social work for not less than 6 years, or shall have received a bachelor's degree from an accredited educational institution and shall have been employed in social work for not less than 2 years, shall have demonstrated to the satisfaction of the board adherence to the ethics of the social work profession and shall have successfully completed the examination prescribed by the board.

Any person having the necessary qualifications prescribed in this chapter to entitle him to registration licensure as a licensed clinical, certified, registered or associate social worker licensed master or license social worker shall be eligible for

that registration license though he may not be practicing his profession at the time of making the application.

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

§7053-A. Functions

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

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

A. Engage in administration, research, consultation, social planning and teaching related to the functions in this section;

B. Perform all the functions of a licensed social worker; and

C. Engage in a nonclinical private practice.

In addition to paragraphs A, B and C, a person holding a "licensed master social worker, conditional" license may engage in psychosocial evaluation, including diagnosis and treatment of mental illness and emotional disorders, and provide clinical consultation to licensed social workers, social work students, other professionals practicing related professions and paraprofessionals engaging in related activities.

A "licensed master social worker, conditional" may not engage in private clinical practice and must receive individual consultation 4 hours a month while practicing social work in a clinical setting.

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

A. Practice social work in a clinical setting without consultation;

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

C. Engage in clinical private practice of social work;

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

E. Engage in the clinical consultation of licensed master social workers for the purpose of preparing the licensed master social worker for eventual licensed clinical social workers' status or regular licensure. This includes responsibility for ongoing training and evaluation. The licensed clinical social worker has an obligation to assess the licensed master social worker's competence and ethics and share this assessment with the Board of Social Work Registration at the time the licensed master social worker applies for the licensed clinical level.

3. Certified social worker - independent practice. A certified social worker - independent practice may:

A. Perform all the functions of a licensed master social worker;

B. Practice social work in a clinical setting without consultation; and

C. Engage in clinical private practice of social work.

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

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

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

C. Refer clients to other professional services;

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

E. Participate in training and education or social work students from an accredited institution and supervise other licensed social workers.

A licensed social worker shall not engage in the private practice of social work, diagnose mental illness and emotional disorders or provide psychotherapy. A

licensed social worker with less than 2 years' experience must receive consultation from either a licensed master social worker, a licensed clinical social worker or a certified social worker - independent practice in a manner to be prescribed by the board on a group or individual basis 4 hours a month. Licensed social workers in health care facilities licensed by the Department of Human Services shall receive consultation on a quarterly basis in a manner prescribed by the department. The department staff giving consultation to intermediate care facilities must be on the master or clinical level by January 1, 1993.

Notwithstanding the provisions of this subsection, licensed social workers employed by the Department of Human Services shall receive consultation in a manner to be prescribed by the department.

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

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

§7054-A. Licensure without examination

A person holding a certificate of registration or license under the laws of another state, territory or possession of the United States, the District of Columbia or of any foreign 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.

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

Any person certified by the board prior to the effective date of this section or under former section 7054 as a certified social worker and who engages in the independent practice of social work pursuant to section 7052 shall be licensed as a "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 ex-

amination if the person has a masters' degree in social work or social welfare.

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

Any person not eligible for licensure on the effective date of this section, but who is employed in a position in which representation is made to the public as a social worker or the title of social worker is used, shall be entitled to licensure without examination as a "licensed social worker" as long as an application, made pursuant to section 7056, is received by the board by July 1, 1987.

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

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

§7056. Application; fees

Application for registration and certification license as a licensed clinical, certified, registered or associate licensed master or licensed social worker shall be on a form prescribed and furnished by the board. An application fee and an examination fee may be established by the board in amounts which are reasonable and necessary for their respective purposes. The registration fee for an associate social worker shall be established by the board in an amount not to exceed \$25. All fees shall accompany the application.

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

The registration license fee for a certified licensed master social worker shall be established by the board in an amount not to exceed \$75. All fees shall accompany the application.

The license fee for a licensed clinical social worker shall be established by the board in an amount

not to exceed \$125. All fees shall accompany the application.

Should if the board deny denies the issuance of a license or certificate of registration to any applicant, the application and examination fees shall be nonrefundable.

Sec. 17. 32 MRSA §7057, 2nd ¶, as amended by PL 1983, c. 413, §228, is further amended to read:

The passing grade on any examination shall be not less than 70% established by the board based upon National Testing Scores set by the testing company. A candidate failing any examination may apply for reexamination, which shall be granted upon payment of a fee established by the board in an amount not in excess of the original application and examination fees. Any candidate for registration having an average grade of less than 50% in his written examination may not apply for reexamination for one year.

Sec. 18. 32 MRSA §7059, as repealed and replaced by PL 1983, c. 413, §229, is amended to read:

§7059. Suspension, revocation and reissuance

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

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

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

- C. A medical finding of mental incompetency;
- D. Aiding or abetting a person not duly certified as a certified, registered or associate social worker licensed in representing himself as a certified, registered or associate licensed clinical, licensed master or licensed social worker or certified social worker - independent practice in this State;
- E. Any gross negligence, incompetency or misconduct in the practice of professional social work;
- F. Subject to the limitations of Title 5, chapter 341, conviction of a Class A, B or C crime or of a crime which, if committed in this State, would be punishable by one year or more of imprisonment; or
- G. Violation of any provision of this chapter or any rule of the board.

Any person may register a complaint against any certified, registered or associate social worker licensed at any level. Any complaints shall be in writing, shall be sworn to by the person making them and shall be filed with the secretary of the board.

The board, for reasons it may deem sufficient, may reissue a certificate of registration as a certified, registered or associate social worker license to any person whose certificate of registration license has been revoked, provided that 5 or more members of the board vote in favor of that reissuance. A new certificate of registration as a certified, registered or associate social worker license to replace any certificate license revoked, lost, destroyed or mutilated, may be issued, subject to the rules of the board. A charge of \$3 shall be made for that issuance.

Sec. 19. 32 MRSA §7060, as amended by PL 1983, c. 413, §§230 and 231, is further amended to read:

§7060. Expiration and renewals

Certificates of registration Licenses shall expire biennially on December 31st or at such other times as the Commissioner of Business, Occupational and Professional Regulation may designate. Biennial fees for renewal of registration license shall be set by the board in an amount not to exceed \$50 and shall be due and payable biennially on or before the first

day of January. Every 2nd renewal shall be contingent upon evidence of participation in a continuing professional education course or program as approved by the board. Registration A license may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the renewal date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

The board shall provide by regulation that a person registered licensed under this chapter may, upon written request, be placed in an inactive status. Reasons for granting inactive status shall include, but not be limited to, changes in occupation, residence and health. The payment of fees shall be suspended during the term of inactive status. The board shall also adopt rules by which a person in an inactive status may be reinstated. A person may be reinstated to active status by notifying the commissioner and by paying the fees for the year of reinstatement if the requirements set by the board are met.

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

Sec. 20. 32 MRSA §7063 is enacted to read:

§7063. Application

All persons licensed, registered or certified on any level under the prior social work registration law shall be entitled to practice social work as previously authorized as long as licensure remains current.

Effective April 16, 1986.

CHAPTER 737

S.P. 965 - L.D. 2405

AN ACT to Make Corrections of Errors and
Inconsistencies in the Laws of Maine.