

MAINE STATE LEGISLATURE

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SOCIAL WORKER REGISTRATION
Report of a Study by the
JOINT STANDING COMMITTEE ON
BUSINESS & COMMERCE
2nd Regular Session of the
112th Maine Legislature

January, 1986

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INTRODUCTION

The Social Worker Registration Act (32 MRSA §7001 et seq) sets forth the minimum requirements for registration of social workers in Maine and creates the State Board of Social Worker Registration to administer the Act. As enacted in 1977, the Act allowed governmental and hospital employees to be exempt from registration. In 1979 the Legislature created a temporary exemption for nursing home employees, to expire on July 1, 1981, to allow the Board, the Department of Human Services and nursing home operators time to work out appropriate standards for necessary qualifications and supervision of these social workers. Since then three extensions of this exemption have been granted. The latest exemption expires July 1, 1987.

Since the parties were not able to resolve the problem over the past six years, the Joint Standing Committee on Business and Commerce undertook a study to see whether any group is legitimately entitled to an exemption. In addition, the Committee wanted to look at the structure of the Board and the entire registration act to clear up confusing terms and clearly define qualifications and functions of social workers.

The subcommittee studying the issue held two day long public hearings in October and December, 1985. In addition, various social workers, representatives from the National Association for Social Workers, representatives from the Board of Social Workers, and representatives from the Department of Human Services met twice with the Committee's legislative staff person to work on drafting a proposed bill at the request of and with direction from the subcommittee.

FINDINGS AND RECOMMENDATIONS

-A majority of the Committee decided that all persons calling themselves social workers should be licensed and come under the law. However, several members think that only clinical social workers--those doing therapy--should be licensed. This would mean that all social workers with no degree or a bachelors degree would be unregulated.

-Since "registration" under current law requires certain qualifications and an examination, it is essentially the same as "licensure". Therefore, all levels should use the term licensed as opposed to registered or certified.

-Qualifications and functions of all levels of social workers should be clearly stated in the law.

-The term "consultation" should be defined and used instead of "supervision" since this is an area which has caused a great deal of confusion. Consultation should be limited to new social workers and last for no more than two years.

-"Clinical setting" should be defined and used to differentiate those social workers who may practice therapy and those who may not. Only master level people with adequate training or consultation should be allowed to practice therapy, i.e., diagnose and treat mental illness or emotional disorders. This definition of "clinical setting" was used for the purposes of the proposed bill. However, some members of the Committee want to work more on defining "clinical setting" since the definition is narrow.

-"Private practice" should be defined and limited to those social workers at the licensed clinical social worker level.

-Persons who are now "certified social workers" should become "licensed master social workers" without further examination. All persons who are now "registered social workers" or "associate social workers" should become "licensed social workers" without further examination since both levels perform the same functions.

-Any person who is employed in social work but not registered as allowed under current law when a new law becomes effective should be allowed to become licensed according to the current qualifications for associate social workers regarding years of experience.

-In the future all new social workers should be required to have a degree in social work or social welfare or equivalent course or field work.

-Social workers presently certified or registered should be allowed to continue practicing in the same manner as authorized under current law even though functions for their level may change under a new law. This applies especially to certified social workers who may engage in private practice under current law, but would not be able to under the proposed law.

-The Board should have an odd number of members and therefore should be reduced from eight to seven. The number of public members should be increased from one to two. Board members should serve only two consecutive terms instead of three.

-The Department of Human Services has improved its consultation in regards to social workers in nursing homes. The Department primarily focused on doing surveys before, but now is concentrating on discussion of specific cases. Also social workers in nursing homes do not usually do therapy. A nursing home either contracts out or hires a social worker on the master level when therapy is needed by one of the patients. The Committee found that the consultation by the

Department of Human Services was adequate and would be further improved by a provision requiring the Department to have all consultation done by Master level people within 6 years. The new licensing provisions would also result in better social services in nursing homes in the future.

JG/elk/4604

PROPOSED LEGISLATION

SECOND REGULAR SESSION

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document

No.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY SIX

AN ACT Relating to the Social Worker Registration Act

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

Repeal 32 MRSA §7001

Enact §7001-A in its place

§7001-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall 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. Clinical setting. A "clinical setting" is a setting where mental disorders are evaluated, prevented, diagnosed and treated using psycho-social evaluation.

4. 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.

5. 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.

6. 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.

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

8. Psycho-social evaluation. "Psycho-social evaluation" ~~as used in this chapter~~ includes the determination and examination by social workers of the psycho-social situation of an individual or group related to inter and intra personal stress, family background, family interaction, living arrangements and socio-economic 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 that the person is examined by a physician, and may take into account the physician's opinion in forming the psycho-social 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.

9 Social work. "Social work" means engaging in psycho-social 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 or engaging in community organization, administration, and research.

Amend §7002. Violations

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

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

Repeal §7003. Exemptions

Amend §7005. Communication between social workers and clients.

§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 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 be privileged and disclosure may be required.

Nothing in this section shall 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 modify or affect the provisions of Title 22, sections 4011 to 4015.

Amend §7026

§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 or licensed master social workers, 2 shall be licensed social workers, and there shall be a two 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.

Amend § 7027 Qualifications

§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 licensed clinical, licensed master, or licensed associate social workers, or their equivalents, respectively for not less than 5 years prior to appointment.

The Governor may remove any member for cause.

Amend § 7029 Organization and meetings

The board shall annually elect a chairman, ~~vice-chairman~~ and ~~secretary-treasurer~~ 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 Occupational and Professional Regulation.

Amend § 7051 Registration required

§7051 Registration 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~~ licensed clinical, licensed master, or licensed social worker shall be required to submit evidence that he is qualified to so practice and shall be ~~registered licensed~~ licensed as provided in this subchapter.

The board may grant conditional licenses 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.

Repeal § 7052 Independent practice of social work; license required

Amend §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. Certified 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; nonclinical" license. In addition, any person wishing to practice social work in a clinical setting shall receive a "licensed master social worker; conditional" license. A person holding a conditional license shall receive a "licensed master social worker; clinical" license after 2 years of experience with individual consultation of 4 hours a month.

2. Licensed Clinical Social Worker. As a licensed clinical social worker an applicant shall have received 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 non-clinical 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 defining the clinical experience required for this level of licensure.

3. Registered 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 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.

~~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 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 licensed social worker shall be eligible for that registration license though he may not be practicing his profession at the time of making the application.

§7053-A. Functions

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

1. Licensed master social worker. A licensed master social worker may

A. engage in administration, research, consultation, social planning and teaching related to the above functions; and

B. perform all the functions of a social worker.

In addition to the above, a person holding a conditional license or a person holding a "licensed master social worker; clinical" license may engage in psycho-social evaluation including diagnosis and treatment of mental illness and emotional disorders.

A person holding a "licensed master social worker; clinical" license may provide clinical consultation to licensed master social workers holding a conditional license, licensed social workers, social work students, other professionals practicing related professions and paraprofessionals engaging in related activities.

A licensed master social worker may not engage in private practice. A licensed master social worker with a conditional license 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 supervision;

B. engage in psycho-social evaluation including diagnosis and treatment of mental illness and emotional disorders;

C. engage in the 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 on-going 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. Licensed social worker. A licensed social worker may

A. engage in psycho-social 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; and

D. plan, manage, direct or coordinate social services.

A licensed social worker shall not engage in the private practice of social work, diagnose mental illness and emotional disorders, or provide psycho-therapy. A licensed social worker with less than 2 years experience must receive consultation from either a licensed master social worker or a licensed clinical social worker in a manner to be prescribed by the board on a group or individual basis 4 hours a month. Licensed social workers in institutions supervised by the Department of Human Services shall receive consultation on a quarterly basis in a manner prescribed by the Department of Human Services. Department of Human Services staff giving consultation must be on the master or clinical level by January 1, 1993.

Amend §7054.

§7054. Registration 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 or certificate of registration as a clinical, certified, registered licensed clinical, licensed master, or associate 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 registered licensed without further examination.

Any person registered by the board on the effective date of this chapter as a registered social worker or an associate social worker shall automatically be registered licensed as a "certified-social-worker" "licensed social worker" without further examination. ~~and any person who is registered as an associate social worker on the effective date of this chapter and who has received a bachelors degree in social work or social welfare from an accredited educational institution shall automatically be registered as a "registered social worker" without further examination. Any other person registered as an associate social worker on the effective date of this chapter shall automatically be reregistered as an "associate social worker" without further examination.~~

Any person certified by the board on the effective date of this chapter 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" on the effective date of this chapter shall remain licensed as a "licensed clinical social worker" without further examination.

Persons not eligible for licensure under this chapter but who are employed to do social work on the effective date of this chapter must register with the board and will be granted a provisional license. A person with a provisional license and a bachelor's degree who has been employed for 2 years doing social work must successfully complete the examination for licensure as a social worker within the time prescribed by the board. Any other person with a provisional license who has been employed for 6 years doing social work must successfully complete the examination for licensure as a social worker within the time prescribed by the board.

Repeal §7055 Certified social worker; equivalency registration.

Amend §7056 Application; fee

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

Amend §7059. Suspension, revocation and reissuance.

§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;

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 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 in this State;

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

F. Subject to the limitation 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.

Amend §7060. Expiration and renewals.

§7060. Expiration and renewals

~~Certificates of registration~~ Licenses shall expire biennially on December 31st or at such other times as the Commissioner of Business 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 in active status. A person may be reinstated to active status by notifying the commissioner and by paying the fees for the year of reinstatement.

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.

§7064. Grandfather clause

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

STATEMENT OF ACT

The purpose of this amendment is to clarify the functions, supervision, and educational requirements of social workers. Under this bill all levels of social workers will be licensed regardless of where the social workers are employed since all exemptions have been removed. There will be three basic levels of licensure. Each level has been clearly defined in terms of

education, consultation (supervision), and function. All new social workers at the "licensed social worker" level and all new social workers at the "licensed master social worker level" who are engaging in the diagnosis and treatment of mental disorders will be required to receive 2 years of consultation at the rate of 4 hrs/month. Social workers that come under the Department of Human Services will continue to receive their consultation through the Department on a quarterly basis. There is also a requirement that all consultation by the Department of Human Services be done by persons on the 2 highest levels by January 1, 1993.

This bill alters the composition of the board from one public member to two and total membership from 8 to 7 members each serving only 2 consecutive terms instead of three. The bill also brings current practice concerning titles and functions of board officers in line with statutory language.

JG/elk/4230