

## Notice of Agency Rulemaking Proposal

AGENCY: 02-416, Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Social Worker Licensure

CHAPTER NUMBER AND TITLE:

Repeal and Replace:

Chapter 10: Definitions  
Chapter 11: Advisory Rulings  
Chapter 12: Licensure by Endorsement (formerly Application for Licensure)  
Chapter 13: Licensure  
Chapter 14: Continuing Professional Education  
Chapter 15: Scope of Practice  
Chapter 16: Code of Ethics and Grounds for Discipline (formerly Enforcement and Disciplinary Procedures)  
Chapter 17: Record Retention Requirements

New:

Chapter 18: Telehealth

TYPE OF RULE (*check one*):  Routine Technical  Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY:

The principal reasons for this proposed rulemaking are to: (1) update the board's current rules, (2) propose rules to implement a pathway for licensure by endorsement pursuant to Public Law 2021, Chapter 167, An Act to Facilitate Licensure for Credentialed Individuals from Other Jurisdictions, and (3) propose rules to implement Public Law 2021, Chapter 291, An Act Regarding Telehealth Regulations.

Date, time and location of PUBLIC HEARING (*if any*): N/A. Pursuant to 5 M.R.S. § 8052(1) and § 8053(3)(B), a hearing may be requested by five (5) interested persons by submitting a request in writing to contact person for this filing.

COMMENT DEADLINE: Friday, May 27, 2022, at 5:00 p.m.

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, email*): Kristina M. Halvorsen, 35 State House Station, Augusta, ME 04333, 207-624-8420, TTY: Maine relay 711, Kristina.M.Halvorsen@maine.gov.

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. §§ 7001-A, 7030(2), 7030(5), 7053, 7053-A, 7057, 7059, 7060, 7071-7075; 5 M.R.S. §§ 8051, 9001(4); 10 M.R.S. § 8003-H.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*:

AGENCY WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/state-board-social-worker-licensure>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: [kristin.racine@maine.gov](mailto:kristin.racine@maine.gov)

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\* Check one of the following two boxes.

The summary provided above is for publication in both the newspaper and website notices.

The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rulemaking notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

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**Please approve bottom portion of this form and assign appropriate AdvantageME number.**

APPROVED FOR PAYMENT \_\_\_\_\_ DATE: \_\_\_\_\_

*(authorized signature)*

| FUND | AGENCY | ORG  | APP | OBJ  | PROGRAM | FUNDING Profile JVC | FUND Pri JVC | FUND Line JVC |
|------|--------|------|-----|------|---------|---------------------|--------------|---------------|
| 014  | 02A    | 4420 | 01  | 4946 |         |                     |              |               |

# Notice of Agency Rulemaking Proposal

## Additional Information for the Web *(if any)*

### DETAILED SUMMARY:

For a copy of the proposed rulemaking, please e-mail the contact person for this filing or visit:  
<https://www.maine.gov/pfr/professionallicensing/professions/state-board-social-worker-licensure>

**Chapter 10, Definitions:** The rulemaking proposes to clarify terms used to describe educational and experience requirements for licensure, to update the term “sexual misconduct” to include violations that occur during electronic communication, and to update the definition of “organic mental illness” to reflect the term as used in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

**Chapter 11, Advisory Rulings:** The rulemaking proposes minor, technical formatting amendments.

**Chapter 12, Licensure by Endorsement:** The rulemaking proposes to repeal and replace Chapter 12, currently titled “Application for Licensure”, relocating relevant provisions to Chapter 13 and replacing the rule with a newly created Chapter 12, titled Licensure by Endorsement. This chapter describes the pathway for Maine licensure for applicants with an active license in a U.S. jurisdiction that maintains licensing requirements that are substantially similar to Maine’s requirements. This rule implements LD 149 (P.L. 2021, c. 167), An Act to Facilitate Licensure for Credentialed Individuals from Other Jurisdictions.

**Chapter 13, Licensure:** The rulemaking proposes amendments to this chapter by incorporating sections relocated from the former Chapter 12, Application for Licensure, removing submission of letters of professional recommendation from the requirements for initial licensure, clarifying which licensed professionals are qualified to provide consultation hours, amending the rule to reflect that consultation hours may be completed in person, through video or audio-only technology, or any combination thereof, and may be individual or in a group of not more than 8 members; and clarifies that “social work employment” as the term is used in rule must consist entirely of work that is compensated financially.

**Chapter 14, Continuing Professional Education:** The rulemaking proposes amendments to this chapter by incorporating a new statutory requirement pursuant to 32 M.R.S. § 7060 to complete course work in family or intimate partner violence, clarifying the retention rule for documentation of continuing education activities, and making amendments to the scope of acceptable continuing professional education activities, specifically delineating the number of hours that may be earned through sessions in which immediate interaction with the instructor is/is not available, and hours that may be earned through teaching, writing and/or independent study.

**Chapter 15, Scope of Practice:** The rulemaking proposes minor, technical amendments to clarify the terminology used to describe the different categories of licenses described therein.

**Chapter 16, Code of Ethics and Grounds for Discipline:** The rulemaking proposes to amend Chapter 16, currently titled Enforcement and Disciplinary Procedures, by amending the title to Code of Ethics and Grounds for Discipline. The proposed amendments would omit the procedures for imposing discipline and conduct of adjudicatory hearings that are contained elsewhere in Maine law, namely in Title 10, Section 8003 and Title 5, Chapter 375. The proposed amendments clarify what activities considered “misconduct,” incorporate by reference the Code of Ethics adopted by the National Association of Social Workers

(NASW), approved by the 1996 NASW Delegate Assembly and revised by the NASW Delegate Assembly in 2020, © 2021, and amends what conduct is considered “sexual misconduct.”

**Chapter 17, Record Retention Requirements:** The rulemaking proposes minor, technical formatting amendments to this chapter.

**Chapter 18, Telehealth:** The rulemaking proposes a new rule, Chapter 18, Telehealth, to implement the provisions of P.L. 2021, c. 291 (32 M.R.S. §§ 7071 *et seq.*) by establishing standards of practice and appropriate restrictions for when licensees use telehealth to provide services to clients.

## Rulemaking Fact Sheet

(5 MRSA §8057-A)

AGENCY: 02-416, Department of Professional and Financial Regulation, Board of Social Worker Licensure

NAME, ADDRESS, PHONE NUMBER, EMAIL OF AGENCY CONTACT PERSON: Kristina M. Halvorsen, 35 State House Station, Augusta, ME 04333, 207-624-8420, TTY: Maine relay 711, Kristina.M.Halvorsen@maine.gov.

### CHAPTER NUMBER AND RULE TITLE:

Chapter 10: Definitions  
Chapter 11: Advisory Rulings  
Chapter 12: Licensure by Endorsement (formerly Application for Licensure)  
Chapter 13: Licensure  
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New:

Chapter 18: Telehealth

TYPE OF RULE (*check one*):  Routine Technical  Major Substantive

STATUTORY AUTHORITY: 32 M.R.S. §§ 7001-A, 7030(2), 7030(5), 7053, 7053-A, 7057, 7059, 7060, 7071-7075; 5 M.R.S. §§ 8051, 9001(4); 10 M.R.S. § 8003-H.

DATE, TIME AND PLACE OF PUBLIC HEARING: N/A. Pursuant to 5 M.R.S. § 8052(1) and § 8053(3)(B), a hearing may be requested by five (5) interested persons by submitting a request in writing to contact person for this filing.

COMMENT DEADLINE: Friday, May 27, 2022, at 5:00 p.m.

### PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE:

The principal reasons for this proposed rulemaking are to: (1) update the board's current rules, (2) propose rules to implement a pathway for licensure by endorsement pursuant to Public Law 2021, Chapter 167, An Act to Facilitate Licensure for Credentialed Individuals from Other Jurisdictions, and (3) propose rules to implement Public Law 2021, Chapter 291, An Act Regarding Telehealth Regulations.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE?  YES  NO

### ANALYSIS AND EXPECTED OPERATION OF THE RULE:

**Chapter 10, Definitions:** The rulemaking proposes to clarify terms used to describe educational and experience requirements for licensure, to update the term "sexual misconduct" to include violations that occur during electronic communication, and to update the definition of "organic mental illness" to reflect the term as used in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

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BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) Expertise of board members and staff; research of other jurisdictions’ laws and rules.

ESTIMATED FISCAL IMPACT OF THE RULE: Minimal.

***FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:***

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:  
[see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]

*Note: If necessary, additional pages may be used.*

## Chapter 10: DEFINITIONS

**Summary:** This chapter defines terms used in these rules [and supplement those contained in 32 M.R.S. § 7001-A.](#)

~~[Note: These definitions supplement those contained in 32 M.R.S.A. §7001-A.]~~

## 1. Definitions

As used in the rules of the State Board of Social Worker Licensure, unless the context otherwise indicates, the following terms have the following meanings:

1. **Accredited program.** An “accredited program” is a program accredited by the Council on Social Work Education [or similar accrediting organization](#).
2. **ASWB.** “ASWB” is Association of Social Work Boards.
3. **Bachelor’s degree.** “Bachelor’s degree” is a baccalaureate degree conferred by a college or university located in the United States that has been accredited by an accrediting agency recognized by the United States Department of Education [or conferred by an institution located outside the United States and recognized as equivalent to a bachelor’s degree by the International Social Work Degree Recognition and Evaluation Service of the Department of Social Work Accreditation](#).
4. **Clinical concentration.** “Clinical concentration” is course content in a [Master of Social Work](#) (MSW) degree consisting of:
  - A. A minimum of 2 graduate courses in personality theory, 1 of which focused on adult psychopathology, and the other on normal growth and development. (Advanced standing MSW students are not required to separately complete coursework on normal growth and development at the graduate level); and
  - B. One of the following groupings:
    - (1) Four graduate clinical methods courses in practice with individuals, couples, families and groups;
    - (2) Three clinical methods courses and 1 additional course in personality theory.
5. **Clinical social work practice.** “Clinical social work practice” is the practice of social work in a clinical setting. "Clinical social work practice" is the professional application of social work theory and methods to the evaluation, diagnosis, treatment and prevention of

psychosocial dysfunction, disability or impairment, including emotional and mental disorders. “Clinical social work practice” is based on knowledge and theory of psychosocial development, behavior, psychopathology, unconscious motivation, interpersonal relationships, environmental stress, social systems, and cultural diversity with particular attention to person-in-environment. Clinical social work practice shares with all social work practice the goal of enhancement and maintenance of psychosocial functioning of individuals, families and small groups.

6. **Contact hour.** A “contact hour” is 60 minutes of participation in a continuing professional education activity described in Chapter 14.
7. **Doctoral degree.** “Doctoral degree” is a doctoral degree conferred by a college or university located in the United States that has been accredited by an accrediting agency recognized by the United States Department of Education or conferred by an institution located outside the United States and recognized as equivalent to a doctoral degree by the International Social Work Degree Recognition and Evaluation Service of the Department of Social Work Accreditation.
8. **Field sufficiently related to social work or social welfare.** “Field sufficiently related to social work or social welfare” includes, but is not limited to, behavioral science, social and behavioral sciences, childhood development, education, and human development, mental health and human services, psychology, ~~psychology~~/educational psychology, rehabilitation services, and sociology.
- ~~8.~~ **Distance learning.** ~~“Distance learning” encompasses continuing education activities that employ electronic applications and processes such as web-based learning, multi-site classrooms, virtual classrooms and digital collaboration. Distance learning includes the delivery of content via internet, intranet/extranet (LAN/WAN), asynchronous transfer mode, satellite broadcast and interactive television.~~
899. **Major sexual violation.** “Major sexual violation” is the more serious of the 2 levels of sexual misconduct. A major sexual violation consists of any conduct by a social worker with a client or another individual described in these rules that is overtly sexual or may be reasonably interpreted as overtly sexual, even when initiated or consented to by a client, including but not limited to:
  - A. Sexual intercourse or genital to genital contact;
  - B. Oral to genital contact;
  - C. Oral to anal contact or genital to anal contact;
  - D. Kissing in a sexual manner (e.g., kissing on the lips);
  - E. Any touching of a body part for any purpose other than appropriate comfort, or where the client/patient has refused or has withdrawn consent;
  - F. Performing or offering to perform any service, or providing or offering to provide any consideration, of any kind in exchange for sexual favors.
910. **Master’s degree.** “Master’s degree” is a master’s degree conferred by a college or

university located in the United States that has been accredited by an accrediting agency recognized by the United States Department of Education or conferred by an institution located outside the United States and recognized as equivalent to a master's degree by the International Social Work Degree Recognition and Evaluation Service of the Department of Social Work Accreditation.

- 119. Minor sexual violation.** "Minor sexual violation" is the less serious of the 2 levels of sexual misconduct. A minor sexual violation consists of words, gestures, expressions or behaviors by the social worker that are seductive, sexually suggestive, sexualized or sexually demeaning to a client or another individual described in these rules, including but not limited to:
- A. Kissing;
  - B. Inappropriate comments about or to a client, including but not limited to sexual comments about a client's body or underclothing;
  - C. Criticism of the client's sexual orientation or gender identity;
  - D. Comments about the client's sexual performance when not clinically indicated;
  - E. Requests for details of sexual likes or dislikes when not clinically indicated;
  - F. Use of the social worker-client relationship to solicit a date or initiate a romantic relationship; or
  - G. Initiation or participation by the social worker of conversation regarding the sexual problems, preferences or fantasies of the social worker or client when not clinically indicated.
- 122. Organic mental illness.** "Organic mental illness" means any neurocognitive disorder or neurodevelopmental disorder delirium, dementia, and amnesic and other cognitive disorders as described in the Diagnostic and Statistical Manual of Mental Disorders (~~Fifth~~<sup>Fourth</sup> Edition Text Revision), American Psychiatric Association (Washington, D.C. ~~2013~~<sup>2000</sup>).
- 123. Organic treatment.** "Organic treatment" is any treatment directly affecting the organs of the body, e.g., i.e. medication and any type of direct physical treatment.
- 143. Psychopathology.** For purposes of "psychosocial evaluation" as defined in 32 M.R.S.A. § 7001-A(10), "psychopathology" is a severe and protracted change in behavioral, affective, cognitive or biological functioning including but not limited to:
- A. Behavioral
    - (1) Impairment in ability to understand one's behavior and its consequences;
    - (2) Impairment in ability to control one's behavior; or
    - (3) Inability to maintain occupational, educational or other basic social functioning.

- B. Affective
- (1) Significant depression; or
  - (2) Excessive elation or irritability.
- C. Cognitive
- (1) Impairments/errors in judgment;
  - (2) Confusion/disorientation;
  - (3) Illogical thinking, thoughts of suicide or assaultiveness; or
  - (4) Hallucinations, delusions.
- D. Biological
- (1) Eating disturbance;
  - (2) Sleeping disturbance;
  - (3) Unexplained pain; ~~or~~
  - (4) Bowel disturbance; ~~or~~
  - (5) Substance use disorder.

154. **Sexual misconduct.** ~~"Sexual misconduct"~~ by a social worker is nondiagnostic, nontherapeutic behavior that exploits the social worker-client relationship in a sexual way. Sexual misconduct includes both major sexual violations and minor sexual violations and includes violations that occur during in-person interaction or through electronic communication, including but not limited to communication via email, text messaging, and social media.

165. **Social service delivery field.** "Social service delivery field" means a field in which services are provided to advance human welfare, especially with regard to disadvantaged or vulnerable persons or groups.

167. **Social work employment.** "Social work employment" means work in the social service delivery field that is compensated financially.

STATUTORY AUTHORITY: 32 M.R.S. ~~A~~ § 7030(2); ~~7001-A, 32 M.R.S. § 7053-A~~

EFFECTIVE DATE:

~~October 23, 2004—filing 2004 461~~

**Chapter 10: DEFINITIONS**

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**Summary:** This chapter defines terms used in these rules and supplements those contained in 32 M.R.S. § 7001-A.

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**1. Definitions**

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4. **Clinical concentration.** “Clinical concentration” is course content in a Master of Social Work (MSW) degree consisting of:
  - A. A minimum of 2 graduate courses in personality theory, 1 of which focused on adult psychopathology, and the other on normal growth and development. (Advanced standing MSW students are not required to separately complete coursework on normal growth and development at the graduate level); and
  - B. One of the following groupings:
    - (1) Four graduate clinical methods courses in practice with individuals, couples, families and groups;
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5. **Clinical social work practice.** “Clinical social work practice” is the practice of social work in a clinical setting. “Clinical social work practice” is the professional application of social work theory and methods to the evaluation, diagnosis, treatment and prevention of psychosocial dysfunction, disability or impairment, including emotional and mental disorders. “Clinical social work practice” is based on knowledge and theory of psychosocial development, behavior, psychopathology, unconscious motivation,

interpersonal relationships, environmental stress, social systems, and cultural diversity with particular attention to person-in-environment. Clinical social work practice shares with all social work practice the goal of enhancement and maintenance of psychosocial functioning of individuals, families and small groups.

6. **Contact hour.** A “contact hour” is 60 minutes of participation in a continuing professional education activity described in Chapter 14.
7. **Doctoral degree.** “Doctoral degree” is a doctoral degree conferred by a college or university located in the United States that has been accredited by an accrediting agency recognized by the United States Department of Education or conferred by an institution located outside the United States and recognized as equivalent to a doctoral degree by the International Social Work Degree Recognition and Evaluation Service of the Department of Social Work Accreditation.
8. **Field sufficiently related to social work or social welfare.** “Field sufficiently related to social work or social welfare” includes, but is not limited to, behavioral science, social and behavioral sciences, childhood development, education, human development, mental health and human services, psychology, educational psychology, rehabilitation services, and sociology.
9. **Major sexual violation.** “Major sexual violation” is the more serious of the 2 levels of sexual misconduct. A major sexual violation consists of any conduct by a social worker with a client or another individual described in these rules that is overtly sexual or may be reasonably interpreted as overtly sexual, even when initiated or consented to by a client, including but not limited to:
  - A. Sexual intercourse or genital to genital contact;
  - B. Oral to genital contact;
  - C. Oral to anal contact or genital to anal contact;
  - D. Kissing in a sexual manner (e.g., kissing on the lips);
  - E. Any touching of a body part for any purpose other than appropriate comfort, or where the client has refused or has withdrawn consent;
  - F. Performing or offering to perform any service, or providing or offering to provide any consideration, of any kind in exchange for sexual favors.
10. **Master’s degree.** “Master’s degree” is a master’s degree conferred by a college or university located in the United States that has been accredited by an accrediting agency recognized by the United States Department of Education or conferred by an institution located outside the United States and recognized as equivalent to a master’s degree by the International Social Work Degree Recognition and Evaluation Service of the Department of Social Work Accreditation.
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  - C. Criticism of the client's sexual orientation or gender identity;
  - D. Comments about the client's sexual performance when not clinically indicated;
  - E. Requests for details of sexual likes or dislikes when not clinically indicated;
  - F. Use of the social worker-client relationship to solicit a date or initiate a romantic relationship; or
  - G. Initiation or participation by the social worker of conversation regarding the sexual problems, preferences or fantasies of the social worker or client when not clinically indicated.
12. **Organic mental illness.** “Organic mental illness” means any neurocognitive disorder or neurodevelopmental disorder as described in the Diagnostic and Statistical Manual of Mental Disorders (Fifth Edition), American Psychiatric Association (Washington, D.C. 2013).
13. **Organic treatment.** “Organic treatment” is any treatment directly affecting the organs of the body, *e.g.*, medication and any type of direct physical treatment.
14. **Psychopathology.** For purposes of “psychosocial evaluation” as defined in 32 M.R.S. § 7001-A(10), “psychopathology” is a severe and protracted change in behavioral, affective, cognitive or biological functioning including but not limited to:
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    - (2) Impairment in ability to control one's behavior; or
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  - B. Affective
    - (1) Significant depression; or
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    - (1) Impairments/errors in judgment;

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17. **Social work employment.** “Social work employment” means work in the social service delivery field that is compensated financially.
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STATUTORY AUTHORITY: 32 M.R.S. §§ 7030 (2); 7001-A

EFFECTIVE DATE:

Chapter 11: ADVISORY RULINGS

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**Summary:** This chapter provides for the discretionary issuance of advisory rulings by the board.

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**1. Request and Consideration**

Upon written request of any interested person, the board may issue an advisory ruling pursuant to 5 M.R.S. [A](#) §9001 with respect to the applicability of any statute or rule it administers. Requests for advisory rulings must set forth in detail all facts pertinent to the question. The board may decline to issue an advisory ruling if the question is hypothetical, if there is insufficient information upon which to base a ruling, or for any other reason the board deems proper.

**2. Response**

The board shall acknowledge receipt of a request for an advisory ruling within 15 days after receipt. The board shall respond to every written request for an advisory ruling within 90 days of its receipt of the request, indicating whether or not a ruling will be issued by the board.

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STATUTORY AUTHORITY: 5 M.R.S. [A](#) §§ 8051, 9001(4)

EFFECTIVE DATE:

October 27, 2004 - filing 2004-462

**Summary:** This chapter provides for the discretionary issuance of advisory rulings by the board.

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**1. Request and Consideration**

Upon written request of any interested person, the board may issue an advisory ruling pursuant to 5 M.R.S. §9001 with respect to the applicability of any statute or rule it administers. Requests for advisory rulings must set forth in detail all facts pertinent to the question. The board may decline to issue an advisory ruling if the question is hypothetical, if there is insufficient information upon which to base a ruling, or for any other reason the board deems proper.

**2. Response**

The board shall acknowledge receipt of a request for an advisory ruling within 15 days after receipt. The board shall respond to every written request for an advisory ruling within 90 days of its receipt of the request, indicating whether or not a ruling will be issued by the board.

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STATUTORY AUTHORITY: 5 M.R.S. §§ 8051, 9001(4)

EFFECTIVE DATE:

October 27, 2004 - filing 2004-462

**Chapter 12: ~~APPLICATION FOR LICENSURE~~ BY ENDORSEMENT**

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~~Summary:~~ This chapter describes the board's application procedures.

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**1. ~~Applications~~**

~~All applications for licensure must be made on the forms provided by the board. Requests for these forms may be addressed to:~~

~~Maine State Board of Social Worker Licensure  
35 State House Station  
Augusta, Maine 04333~~

~~or downloaded from~~

~~<http://www.maineprofessionalreg.org/>~~

**2. ~~Education Completed In A Foreign Country~~****1. ~~Social Work Program~~**

~~A graduate of a social work program at a college or university outside the United States shall submit his or her transcript to the Foreign Equivalency Determination Service of the Council on Social Work Accreditation for evaluation. Upon receipt of the evaluation, the board shall determine whether the degree program of the applicant is the substantial equivalent of a bachelor degree and whether the program attended by the applicant is sufficiently related to social work or social welfare so as to qualify the applicant for an LSW Conditional license pursuant to Chapter 13, section 1(1)(A) of the board's rules.~~

**2. ~~Non-Social Work Program~~**

~~A graduate of any other program at a college or university outside the United States shall submit his or her transcript to World Education Services, Inc., Center for Educational Documentation, Inc. or other transcript analysis service that has been approved by the board, for evaluation. Upon receipt of the evaluation, the board shall determine whether the educational qualifications of the applicant are the substantial equivalent of a bachelor degree and whether the program attended by the applicant is sufficiently related to social work or social welfare so as to qualify the applicant for an LSW Conditional license as aforesaid.~~

**3. License Progression**

A licensee applying for a higher category of license (e.g., a licensed master social worker—conditional clinical applying for licensed clinical social worker) shall submit a new and separate application to the board.

**4. Timeliness of Submissions**

All material pertaining to an application must be received by the board within a span of no more than 1 year or such shorter time as specified by the board. Applications which remain incomplete for more than 1 year shall be regarded as lapsed and will be discarded. Candidates whose applications have lapsed must submit new applications in order to pursue licensure.

**5. Examination**

An applicant for licensure as a licensed clinical social worker, licensed master social worker or licensed social worker must pass the ASWB examination required by the board for the appropriate category of licensure.

**6. Fees**

All applications must be accompanied by an application fee and required license fee as set forth in Chapter 10 of the rules of the Department of Professional and Financial Regulation, Office of Licensing and Registration ("Establishment of License Fees").

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**Summary:** This chapter describes the pathway for Maine licensure for applicants with an active license in a U.S. jurisdiction that maintains licensing requirements that are substantially equivalent to Maine's requirements for the licensed profession or occupation, so long as the applicant is in good standing in all jurisdictions in which the applicant holds or has held a license and no cause for denial exists under 10 M.R.S. § 8003(5-A)(A) or under any other law.

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**1. LICENSURE BY ENDORSEMENT**

An individual applying for a license by endorsement must submit a complete application on a form provided by the board, submit any fee required by Chapter 10 of the Rules of the Office of Professional and Occupational Regulation, and meet the following requirements:

**1. License from Another U.S. Jurisdiction**

An applicant must have an active social work license issued by another jurisdiction of the United States that maintains substantially equivalent license requirements for the type of license sought.

**2. Substantially Equivalent License Requirements**

“Substantially equivalent license requirements” means that the jurisdiction maintains a pathway for initial licensure that at a minimum requires the education, examination and clinical experience as set forth in Sections 2(A) and 2(B).

A. Licensed Master Social Worker

- i. Documented proof of a master’s degree in social work or social welfare; and
- ii. Proof of a passing score on ASWB Master’s examination.

B. Licensed Clinical Social Worker

- i. Documented proof of a master’s degree in social work or social welfare;
- ii. Proof of a passing score on ASWB Clinical Examination; and
- iii. Completion of supervised clinical social work experience.

C. Conditional Clinical level licenses

- i. An individual who satisfies the requirements of this Chapter for the Licensed Master Social Worker level license through endorsement may apply for and obtain a Licensed Master Social Worker—Conditional Clinical license without first applying for and obtaining the Licensed Master Social Worker license.
- ii. An individual who obtains a Licensed Master Social Worker – Conditional Clinical license on the basis of endorsement pursuant to this subsection must comply with Chapter 13, Section 4(1)(C) of Board rules and provide documentation of intent to complete a clinical internship.
- iii. An individual applying for licensure by endorsement on the basis of an active Licensed Master Social Worker-Conditional Clinical license or its equivalent issued by another state, who has completed all supervised clinical social work experience required by that state, may seek a Licensed Clinical Social Worker license by endorsement without first obtaining a Licensed Master Social Worker-Conditional Clinical license issued by the board.

**3. Proof of Good Standing in All Jurisdictions**

An applicant must be in good standing in all jurisdictions in which the applicant holds or has held a license. For purposes of this subsection “good standing” means that the applicant does not have a complaint, allegation or investigation pending, does not have a license that is suspended or subject to practice restrictions and has never surrendered a license or had a license revoked.

STATUTORY AUTHORITY: 32 M.R.S. ~~A. §§ § 7030(2) and 7057~~; 10 M.R.S. § 8003-H

EFFECTIVE DATE:

~~October 23, 2004 filing 2004-463~~

**Chapter 12: LICENSURE BY ENDORSEMENT**

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**Summary:** This chapter describes the pathway for Maine licensure for applicants with an active license in a U.S. jurisdiction that maintains licensing requirements that are substantially equivalent to Maine's requirements for the licensed profession or occupation, so long as the applicant is in good standing in all jurisdictions in which the applicant holds or has held a license and no cause for denial exists under 10 M.R.S. § 8003(5-A)(A) or under any other law.

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**1. LICENSURE BY ENDORSEMENT**

An individual applying for a license by endorsement must submit a complete application on a form provided by the board, submit any fee required by Chapter 10 of the Rules of the Office of Professional and Occupational Regulation, and meet the following requirements:

**1. License from Another U.S. Jurisdiction**

An applicant must have an active social work license issued by another jurisdiction of the United States that maintains substantially equivalent license requirements for the type of license sought.

**2. Substantially Equivalent License Requirements**

“Substantially equivalent license requirements” means that the jurisdiction maintains a pathway for initial licensure that at a minimum requires the education, examination and clinical experience as set forth in Sections 2(A) and 2(B).

**A. Licensed Master Social Worker**

- i. Documented proof of a master's degree in social work or social welfare; and
- ii. Proof of a passing score on ASWB Master's examination.

**B. Licensed Clinical Social Worker**

- i. Documented proof of a master's degree in social work or social welfare;
- ii. Proof of a passing score on ASWB Clinical Examination; and
- iii. Completion of supervised clinical social work experience.

- C. Conditional Clinical level licenses
- i. An individual who satisfies the requirements of this Chapter for the Licensed Master Social Worker level license through endorsement may apply for and obtain a Licensed Master Social Worker—Conditional Clinical license without first applying for and obtaining the Licensed Master Social Worker license.
  - ii. An individual who obtains a Licensed Master Social Worker – Conditional Clinical license on the basis of endorsement pursuant to this subsection must comply with Chapter 13, Section 4(1)(C) of Board rules and provide documentation of intent to complete a clinical internship.
  - iii. An individual applying for licensure by endorsement on the basis of an active Licensed Master Social Worker-Conditional Clinical license or its equivalent issued by another state, who has completed all supervised clinical social work experience required by that state, may seek a Licensed Clinical Social Worker license by endorsement without first obtaining a Licensed Master Social Worker-Conditional Clinical license issued by the board.

3. **Proof of Good Standing in All Jurisdictions**

An applicant must be in good standing in all jurisdictions in which the applicant holds or has held a license. For purposes of this subsection “good standing” means that the applicant does not have a complaint, allegation or investigation pending, does not have a license that is suspended or subject to practice restrictions and has never surrendered a license or had a license revoked.

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STATUTORY AUTHORITY: 32 M.R.S. § 7030(2); 10 M.R.S. § 8003-H

EFFECTIVE DATE:

## Chapter 13: LICENSURE

**Summary:** This chapter contains the requirements for initial issuance and renewal of the social worker licenses issued by the board, including licensure without examination by reciprocity, and also provides for inactive licenses.

~~[NOTE:~~ These requirements supplement the statutory requirements for licensure contained in 32 M.R.S. ~~A.~~ §§ 7053(3) and 7060.~~]~~

## 1. Licensed Social Worker ~~Conditional~~

### 1. Initial Issuance

A. Documented proof of a bachelor's degree in a field that is sufficiently related to social work or social welfare;

~~B. Three letters of professional recommendation written within 1 year of receipt by the board, two of which are to be provided by licensed social workers, licensed master social workers, licensed clinical social workers, certified social workers - independent practice, or similarly credentialed social workers from any state or country;~~

~~C.~~ Evidence of employment in a social service delivery field; and

### ~~D.~~ Arrangement of consultation-

(1) For persons other than employees of the Department of Health and Human Services, evidence of an arrangement of consultation to be provided by a licensed social worker with a bachelor's-degree in social work or social welfare with at least 2 years of experience as a licensed social worker, a licensed master social worker, a licensed clinical social worker, or a certified social worker - independent practice, for the consultation required by section 2(1)(B) of this chapter.

(2) For employees of the Department of Health and Human Services, evidence of an arrangement of consultation with a licensed social worker who has been licensed for at least 4 years or a licensed master social worker.

### 2. Renewal

A. Completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

- B. A licensed social worker- conditional license may be renewed one time only so as to allow the licensee the opportunity to obtain the consultation and employment required by section 2(1)(B)(2) of this chapter for licensure as a licensed social worker.

~~[NOTE: Renewal of conditional social worker licenses originally issued prior to September 13, 2003 occurring on or after April 7, 2004 is governed by P&SL 2003, c. 41, An Act to Provide for a Limited Transition Provision for Renewal of Certain Social Worker Licenses.]~~

## 2. Licensed Social Worker

### 1. Initial Issuance

A candidate for licensure must satisfy the requirements of either paragraph A or B below, ~~and paragraphs C-E below.~~

#### A. Graduate of accredited program-

~~(1)~~ \_\_\_\_\_ ~~(1)~~ Documented proof of a bachelor's degree in social work or social welfare from an accredited program; and

~~(+)(2)~~ Proof of a passing score on the ASWB Bachelor examination.

OR

#### B. Conditional licensee-

(1) An active social worker-conditional license ~~(licensed social worker conditional)~~ issued by the board pursuant to section 1 of this chapter;

#### (2) Completion of consultation by conditional licensees-

(a) For persons other than employees of the Department of Health and Human Services, evidence of successful completion of 96 hours of consultation provided by a licensed social worker with a bachelor's degree in social work or social welfare who has completed the licensed social worker~~LSW~~ consultation required by section 2(3) of this chapter, a licensed master social worker, a licensed clinical social worker, or a certified social worker - independent practice. This consultation-

(i) Must be completed while licensed and concurrently with 3,200 hours of social work employment occurring within a period of not less than 2 years nor more than 4 years; and

- (ii) ~~May be completed in person, through televideo, or through audio-only technology, or any combination thereof, and may be completed through individual consultation or in a group of not more than 8 members. Must include at least 72 hours of face to face consultation either individually or in a group of not more than 8 members. The remaining 24 hours may be completed by videoconference but not by telephone or any other audio-only technology.~~

As used in this subparagraph, "social work employment" consists ~~entirely of work that is compensated financially, at least 90% paid employment. The remaining 10% may consist of paid employment or volunteer work. Each social work employment experience, whether paid employment or volunteer work, must be accompanied by a proportionate amount of the 96 hours of consultation required for licensure.~~

- (b) For employees of the Department of **Health and** Human Services whose conditional license was originally issued on or after January 1, 2004, evidence of successful completion of 96 hours of consultation with a licensed social worker who has been licensed for at least 4 years, or a licensed master social worker, concurrently with the first 3,200 hours of social work employment occurring within a period of not less than 2 years nor more than 4 years. For employees of the Department of **Health and** Human Services whose conditional license was originally issued prior to January 1, 2004, evidence of successful completion of consultation in a manner prescribed by that department.

~~C. Three letters of professional recommendation written within 1 year of receipt by the board, two of which are to be provided by licensed social workers, licensed master social workers, licensed clinical social workers, certified social workers— independent practice, or similarly credentialed social workers from any state or country. If the applicant is conditionally licensed as a social worker, 1 recommendation, except in extenuating circumstances, must be from the consultant to the applicant's conditional license;~~

~~(3)D.~~ Proof of a passing score on the ASWB ~~Bachelor~~**Basic** examination.

~~(4)E.~~ If the licensee ~~holds previously held~~ the licensed social worker- conditional license, completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

## 2. **Renewal**

Completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

## 3. **Arrangement and Completion of Licensed Social Worker LSW Consultation**

- A. Upon the commencement of employment as a licensed social worker, the licensee shall provide the board with evidence of an arrangement of consultation as follows:
- (1) For persons other than employees of the Department of Health and Human Services or health care facilities licensed by the Department of Health and Human Services, the consultant must be a licensed master social worker, a licensed clinical social worker, or a certified social worker - independent practice.
  - (2) For employees of the Department of Health and Human Services, the consultant must be a licensed social worker who has been licensed for at least 4 years; a licensed master social worker; or a licensed social worker who has been licensed for at least 2 years, has been designated by that department as a supervisor trainee, and is concurrently receiving 48 hours of consultation with a licensed master social worker.
- B. The licensed social worker must successfully complete the consultation as follows:
- (1) Persons other than employees of the Department of Health and Human Services must provide documentation of 96 hours of consultation completed while licensed and during the first 3,200 hours of social work employment in a period of not less than 2 years nor more than 4 years. Consultation may be completed in person, through televideo, or through audio-only technology, or any combination thereof, and may be completed through individual consultation or in a group of not more than 8 members. Consultation must include at least 72 hours of face-to-face consultation either individually or in a group of not more than 8 members. The remaining 24 hours may be completed by videoconference but not by telephone or any other audio-only technology.

As used in this subparagraph, "social work employment" consists entirely of work that is (rendered for renumeration) compensated financially. at least 90% paid employment. The remaining 10% may consist of paid employment or volunteer work. Each social work employment experience, whether paid employment or volunteer work, must be accompanied by a proportionate amount of the 96 hours of consultation required for licensure.
  - (2) Employees of the Department of Health and Human Services must provide documentation of 96 hours of consultation completed while licensed and during the first 3,200 hours of social work employment in a period of not less than 2 years nor more than 4 years. The consultant must be a licensed social worker who has been licensed for at least 4 years; a licensed master social worker; or a licensed social worker who has been licensed for at least 2 years, has been designated by that department as a supervisor trainee, and who is concurrently receiving 48 hours of consultation with a licensed master social worker.

A licensed social worker who has provided the board with evidence of an arrangement of consultation shall report the number of hours worked and number of consultation hours received at each license renewal until the consultation is completed. If the licensee fails to complete 3,200 hours of social work employment and 96 hours of consultation in a period of 4 years, the license is subject to revocation and will not be further renewed.

~~[NOTE: Renewal of licensed social worker licenses originally issued prior to September 13, 2003 occurring on or after April 7, 2004 is governed by P&SL 2003, c. 41, An Act to Provide for a Limited Transition Provision for Renewal of Certain Social Worker Licenses.]~~

### 3. Licensed Master Social Worker

#### 1. Initial Issuance

- A. Documented proof of a master's or doctoral degree in social work or social welfare from an accredited program; ~~or, until June 30, 2005, from a program in candidacy for accreditation;~~
- ~~B. Three letters of professional recommendation written within 1 year of receipt by the board, 2 of which are to be provided by licensed master social workers, licensed clinical social workers, certified social workers— independent practice, or similarly credentialed social workers from any state or country; and~~
- ~~CB.~~ Proof of a passing score on the ASWB Master Intermediate examination.
- ~~DC.~~ If the licensee holds previously held the licensed social worker license, completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

#### 2. Renewal

Completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

### 4. Licensed Master Social Worker Conditional (Clinical)

#### 1. Initial Issuance

- A. Documented proof of a master's or doctoral degree in social work or social welfare from an accredited program; ~~or, until June 30, 2005, from a program in candidacy for accreditation;~~
- ~~B. Three letters of professional recommendation written within 1 year of receipt by the board, 2 of which are to be provided by licensed master social workers, licensed clinical social workers, certified social workers— independent practice, or similarly credentialed social workers from any state or country;~~

- ~~EB.~~ Proof of a passing score on the ASWB Master Intermediate examination; and
- ~~DC.~~ Documentation of intent to provide the clinical internship described in section 5(1)(D) of this chapter, signed by the licensed clinical social worker, licensed clinical professional counselor, certified social worker - independent practice, or similarly-credentialed social worker from any state or country engaged as the consultant.
- ~~ED.~~ If the licensee holds previously held the licensed social worker or licensed master social worker license, completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

## 2. Renewal

- A. Completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.
- B. Evidence of successful completion of 4 consultation hours as described in section 5(1)(D) of this chapter for each month of actual clinical practice or part thereof engaged in by the licensee during the preceding license term, signed by the licensed clinical social worker, licensed clinical professional counselor, or certified social worker - independent practice, or similarly-credentialed social worker from any state or country who served as consultant.
- C. The holder of a ~~LMSW~~ master social worker -conditional (clinical) may renew that license indefinitely without applying for the LCSW so long as the contact hour and consultation requirements of this subsection are met each renewal cycle.

## 5. Licensed Clinical Social Worker

### 1. Initial Issuance

- A. Documented proof of a doctoral or master's degree in social work or social welfare from an accredited program;
- B. ~~An active valid LMSW-master social worker – conditional Conditional~~ (Clinical) license issued by the board;
- C. Proof of a passing score on the ASWB Clinical examination;
- D. Evidence of successful completion of clinical social work experience a clinical internship while licensed as a licensed master social worker conditional (clinical) through consultation with a licensed clinical social worker, licensed clinical professional counselor, or certified social worker - independent practice, or similarly-credentialed social worker from any state or country who served as consultant. The clinical social work experience internship consists of-
  - (1) Clinical social work practice which encompasses interventions directed to interpersonal interactions, intrapsychic dynamics and life-support and

management issues, including but not limited to individual, couples, family and group psychotherapy;

- (2) For applicants whose ~~MSWs-master's degrees in social work~~ are in clinical concentrations, 96 hours of consultation concurrent with 3,200 hours of social work employment occurring within a period of not less than 2 years. At least 72 consultation hours must be individual, face-to-face consultation. The remaining 24 consultation hours may be completed in group or by videoconference but not by telephone or any other audio-only technology;
- (3) For applicants whose ~~MSWs master's degrees in social work~~ are in nonclinical concentrations, 192 hours of consultation while licensed and concurrent with 6,400 hours of social work employment occurring within a period of not less than 4 years. Consultation may be completed in person, through video or audio-only technology, or any combination thereof, and may be completed through individual consultation or in a group of not more than 8 members. At least 144 consultation hours must be individual, face to face consultation. The remaining 48 consultation hours may be completed in group or by videoconference but not by telephone or any other audio only technology;
- (4) As part of the foregoing consultation, regular, systematic discussion and evaluation of cases, focusing on ~~raw~~ data, goals, ethics, and objectives of specific social work practice; and
- (5) Documentation of the clinical supervision provided.

No less than 50% of the hours of consultation and social work employment described in this paragraph must have been completed within the 4 years immediately preceding application for licensure as a licensed clinical social worker.

Credit for consultation experience will only be given to practice in clinical settings such as organized public or private agencies, schools, institutions or other organizations which provide opportunities for contact with other professional disciplines and work experience with broad ranges of clients. Credit will not be given for private or self-employed practice-with formal or informal affiliations of licensees or self-employed licensees.

For purposes of this level of licensure, "social work employment" consists entirely of work that is compensated financially. at least 90% paid employment. The remaining 10% may consist of paid employment, volunteer work or work as an independent contractor. Each social work employment experience, whether paid employment, volunteer work, or work as an independent contractor, must be accompanied by a proportionate amount of the 96 or 192 hours of consultation required for licensure.

- ~~E.~~ Three letters of professional recommendation written within 1 year of receipt by the board. Except in extenuating circumstances, 1 recommendation must be provided by the applicant's consultant. The second recommendation must be

~~provided by a licensed master social worker, licensed clinical social worker, certified social worker— independent practice, or similarly credentialed social worker from any state or country. The third recommendation must be provided by a licensed master social worker, licensed clinical social worker, or certified social worker— independent practice; by a board certified psychiatrist, licensed clinical psychologist, licensed clinical professional counselor or certified psychiatric clinical nurse specialist; or by a similarly credentialed professional from any state or country.~~

~~FE.~~ Completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

## **2. Partial Waiver of Clinical Experience and Consultation in Connection with Initial Licensure**

The board may waive up to 1 year of the clinical experience and consultation required for initial licensure pursuant to section 5(1)(D) of this chapter for a candidate who demonstrates to the satisfaction of the board lawful equivalent clinical experience and consultation that occurred prior to the applicant's receipt of the master's degree in social work.

## **3. Waiver of Clinical Experience and Consultation Completed in Another State**

For purposes of this section, the board may recognize clinical experience and consultation completed in another state following a candidate's receipt of the master's degree in social work or social welfare that is substantially equivalent to the clinical experience and consultation required by section 5(1)(D) of this chapter.

## **4. Renewal**

Completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

## **6. Certified Social Worker - Independent Practice**

### **1. Initial Issuance**

This license is issued on a renewal basis only.

### **2. Renewal**

Completion of 25 continued professional education contact hours as required by Chapter 14 of the board's rules.

## **7. Change in Consultancy**

Both the consultant social worker and the consultee shall promptly notify the board within 10 days of upon the termination of a consultancy ~~or clinical internship~~ prior to full completion. The consultee ~~or intern~~ shall immediately engage a replacement consultant and immediately provide

evidence of the new arrangement for consultation to the board as soon as practicable but no later than 10 days of the date of the agreement to provide consultation.

## 8. **Licensure without Examination**

1. An individual applying for a license without examination pursuant to 32 M.R.S. § 7054- A must submit a complete application on a form provided by the Board, submit any fee required by Chapter 10 of the Rules of the Office of Professional and Occupational Regulation, and meet the following requirements:

### A. **Proof of License from Another Jurisdiction of the United States or Foreign Country**

An applicant must have an active equivalent social work license issued by a jurisdiction of the United States or of any foreign country.

### B. **Evidence of Meeting Education and Experience Requirements**

(1) An applicant must supply documentation the education and experience requirements of 32 M.R.S. § 7053 and of this Chapter for the level of licensure for which the applicant is applying.

(2) The board may recognize clinical experience and consultation completed in another state or jurisdiction following a candidate's receipt of the master's degree in social work or social welfare that is substantially equivalent to the clinical experience and consultation required by Section 5(1)(D) of this Chapter.

(3) Notwithstanding any provision to the contrary, an applicant applying under this subsection does not need to demonstrate proof of passing the applicable examination.

## ~~3. **Letters of Recommendation**~~

~~The letters of recommendation required by this chapter for the category of license applied for;~~

## ~~4. **Report of Adverse Disciplinary Action and Pending Complaints**~~

~~A statement describing any adverse disciplinary action and pending complaints against any professional license held by the applicant in any jurisdiction; and~~

## ~~5. **Statute and Rules**~~

~~The statutes and rules governing eligibility for social work licensure in the jurisdiction of origin that were in effect at the time the applicant was licensed in the jurisdiction of origin.~~

~~[NOTE: The board will publish from time to time a list of jurisdictions whose licenses it recognizes as equivalent to the Maine categories of licensed social worker, licensed master social worker and licensed clinical social worker. Applicants for licensure by reciprocity from these jurisdictions will not need to submit statutes and rules.]~~

## **642. Applicants Licensed via Grandparenting in Home State**

The board may deny an application for licensure without examination by reciprocity when the applicant's social work license in the jurisdiction of origin was obtained by way of reciprocity or grandparenting and the qualifications of the applicant do not meet the requirements of these rules and 32 M.R.S.A. §7053.

## **9. Inactive Status**

### **1. Initial Issuance**

A licensee may apply for an inactive status license pursuant to 32 M.R.S. § 7060. If a licensee applies for an inactive status license during the 3 months prior to the expiration date of the licensee's active license, the licensee shall demonstrate compliance with the ~~25 contact hours of continuing professional education required for that active license term~~ continuing education requirements in Chapter 14 of the board's rules. The board may refuse to issue an inactive status license to a licensee who fails to demonstrate such compliance, or who is otherwise ineligible for renewal of an active license.

### **2. Prohibition against Practice**

A licensee with an inactive status license shall not practice social work in the State of Maine.

### **3. Continuing Education**

A licensee with an inactive status license need not comply with the continuing professional education requirement set forth in Chapter 14 of the board's rules. However, in order to return to active status, a licensee shall obtain continuing professional education contact hours as set forth in subsection 5.

### **4. Annual Renewal**

To maintain inactive status, ~~a~~ licensee must renew an inactive status license ~~annually~~ by:

- A. Submitting a renewal application;
- B. Paying the license fee set forth in Chapter 10, ~~Section 5(37)~~ of the rules of the Office of Professional and Occupational Regulation, ~~entitled "Establishment of License Fees;"~~ and

C. Providing such other information as the board may require.

## 5. Reinstatement to Active Status License

A licensee with an inactive status license may return to active status by submitting an application to the board, paying the required license fee, and certifying to [compliance with the continuing education requirements in Chapter 14 of the board's rules](#) ~~completion of 25 contact hours of continuing professional education~~ during the two-year period prior to application, ~~in accordance with the requirements for nature and amount of contact hours set forth in Chapter 14 of the board's rules.~~ In the event that a licensee applies to return to active status in less than one year, the licensee may satisfy the continuing professional education requirement by providing evidence of having met the requirement for the most recent renewal cycle.

STATUTORY AUTHORITY: 32 M.R.S.A. §§ 7030(2), 7053, 7057 and 7060; [PS&L 2003, c. 41](#)

EFFECTIVE DATE:

~~August 3, 2004—filing 2004-312~~

~~NON-SUBSTANTIVE CORRECTIONS:~~

~~September 12, 2004—indentions only~~

~~AMENDED:~~

~~January 25, 2016—Section 9 (Inactive Status), filing 2016-007~~

**Chapter 13: LICENSURE**

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**Summary:** This chapter contains the requirements for initial issuance and renewal of the social worker licenses issued by the board, including licensure without examination, and also provides for inactive licenses. These requirements supplement the statutory requirements for licensure contained in 32 M.R.S. §§ 7053(3) and 7060.

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**1. Licensed Social Worker-Conditional****1. Initial Issuance**

- A. Documented proof of a bachelor's degree in a field that is sufficiently related to social work or social welfare;
- B. Evidence of employment in a social service delivery field; and
- C. **Arrangement of consultation-**
  - (1) For persons other than employees of the Department of Health and Human Services, evidence of an arrangement of consultation to be provided by a licensed social worker with a bachelor's degree in social work or social welfare with at least 2 years of experience as a licensed social worker, a licensed master social worker, a licensed clinical social worker, or a certified social worker - independent practice, for the consultation required by section 2(1)(B) of this chapter.
  - (2) For employees of the Department of Health and Human Services, evidence of an arrangement of consultation with a licensed social worker who has been licensed for at least 4 years or a licensed master social worker.

**2. Renewal**

- A. Completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.
- B. A licensed social worker-conditional license may be renewed one time only so as to allow the licensee the opportunity to obtain the consultation and employment required by section 2(1)(B)(2) of this chapter for licensure as a licensed social worker.

## 2. Licensed Social Worker

### 1. Initial Issuance

A candidate for licensure must satisfy the requirements of either paragraph A or B below.

#### A. Graduate of accredited program-

- (1) Documented proof of a bachelor's degree in social work or social welfare from an accredited program; and
- (2) Proof of a passing score on the ASWB Bachelor examination.

OR

#### B. Conditional licensee-

- (1) An active social worker-conditional license issued by the board pursuant to section 1 of this chapter;
- (2) **Completion of consultation by conditional licensees-**

(a) For persons other than employees of the Department of Health and Human Services, evidence of successful completion of 96 hours of consultation provided by a licensed social worker with a bachelor's degree in social work or social welfare who has completed the licensed social worker consultation required by section 2(3) of this chapter, a licensed master social worker, a licensed clinical social worker, or a certified social worker - independent practice. This consultation-

- (i) Must be completed while licensed and concurrently with 3,200 hours of social work employment occurring within a period of not less than 2 years nor more than 4 years; and
- (ii) May be completed in person, through televideo, or through audio-only technology, or any combination thereof, and may be completed through individual consultation or in a group of not more than 8 members.

As used in this subparagraph, "social work employment" consists entirely of work that is compensated financially.

(b) For employees of the Department of Health and Human Services whose conditional license was originally issued on or after January 1, 2004, evidence of successful completion of 96 hours of consultation with a licensed social worker who has been licensed for at least 4 years, or a licensed master social worker, concurrently with the first 3,200 hours of social work

employment occurring within a period of not less than 2 years nor more than 4 years. For employees of the Department of Health and Human Services whose conditional license was originally issued prior to January 1, 2004, evidence of successful completion of consultation in a manner prescribed by that department.

- (3) Proof of a passing score on the ASWB Bachelor examination.
- (4) If the licensee holds the licensed social worker-conditional license, completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

## **2. Renewal**

Completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

## **3. Arrangement and Completion of Licensed Social Worker Consultation**

- A. Upon the commencement of employment as a licensed social worker, the licensee shall provide the board with evidence of an arrangement of consultation as follows:
  - (1) For persons other than employees of the Department of Health and Human Services or health care facilities licensed by the Department of Health and Human Services, the consultant must be a licensed master social worker, a licensed clinical social worker, or a certified social worker - independent practice.
  - (2) For employees of the Department of Health and Human Services, the consultant must be a licensed social worker who has been licensed for at least 4 years; a licensed master social worker; or a licensed social worker who has been licensed for at least 2 years, has been designated by that department as a supervisor trainee, and is concurrently receiving 48 hours of consultation with a licensed master social worker.
- B. The licensed social worker must successfully complete the consultation as follows:
  - (1) Persons other than employees of the Department of Health and Human Services must provide documentation of 96 hours of consultation completed while licensed and during the first 3,200 hours of social work employment in a period of not less than 2 years nor more than 4 years. Consultation may be completed in person, through televideo, or through audio-only technology, or any combination thereof, and may be completed through individual consultation or in a group of not more than 8 members.

As used in this subparagraph, "social work employment" consists entirely of work that is compensated financially.

- (2) Employees of the Department of Health and Human Services must provide documentation of 96 hours of consultation completed while licensed and during the first 3,200 hours of social work employment in a period of not less than 2 years nor more than 4 years. The consultant must be a licensed social worker who has been licensed for at least 4 years; a licensed master social worker; or a licensed social worker who has been licensed for at least 2 years, has been designated by that department as a supervisor trainee, and who is concurrently receiving 48 hours of consultation with a licensed master social worker.

A licensed social worker who has provided the board with evidence of an arrangement of consultation shall report the number of hours worked and number of consultation hours received at each license renewal until the consultation is completed. If the licensee fails to complete 3,200 hours of social work employment and 96 hours of consultation in a period of 4 years, the license is subject to revocation and will not be further renewed.

### **3. Licensed Master Social Worker**

#### **1. Initial Issuance**

- A. Documented proof of a master's or doctoral degree in social work or social welfare from an accredited program;
- B. Proof of a passing score on the ASWB Master examination.
- C. If the licensee holds the licensed social worker license, completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

#### **2. Renewal**

Completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

### **4. Licensed Master Social Worker Conditional (Clinical)**

#### **1. Initial Issuance**

- A. Documented proof of a master's or doctoral degree in social work or social welfare from an accredited program; or,
- B. Proof of a passing score on the ASWB Master examination; and
- C. Documentation of intent to provide the clinical internship described in section 5(1)(D) of this chapter, signed by the licensed clinical social worker, licensed clinical professional counselor, certified social worker - independent practice, or similarly-credentialed social worker from any state or country engaged as the consultant.

- D. If the licensee holds the licensed social worker or licensed master social worker license, completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

## **2. Renewal**

- A. Completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.
- B. Evidence of successful completion of 4 consultation hours as described in section 5(1)(D) of this chapter for each month of actual clinical practice or part thereof engaged in by the licensee during the preceding license term, signed by the licensed clinical social worker, licensed clinical professional counselor, or certified social worker - independent practice, or similarly-credentialed social worker from any state or country who served as consultant.
- C. The holder of a master social worker - conditional (clinical) may renew that license indefinitely without applying for the LCSW so long as the contact hour and consultation requirements of this subsection are met each renewal cycle.

## **5. Licensed Clinical Social Worker**

### **1. Initial Issuance**

- A. Documented proof of a doctoral or master's degree in social work or social welfare from an accredited program;
- B. An active master social worker - conditional (clinical) license issued by the board;
- C. Proof of a passing score on the ASWB Clinical examination;
- D. Evidence of successful completion of clinical social work experience while licensed as a licensed master social worker conditional (clinical) through consultation with a licensed clinical social worker, licensed clinical professional counselor, or certified social worker - independent practice, or similarly-credentialed social worker from any state or country who served as consultant. The clinical social work experience consists of:
  - (1) Clinical social work practice which encompasses interventions directed to interpersonal interactions, intrapsychic dynamics and life-support and management issues, including but not limited to individual, couples, family and group psychotherapy;
  - (2) For applicants whose master's degrees in social work are in clinical concentrations, 96 hours of consultation concurrent with 3,200 hours of social work employment occurring within a period of not less than 2 years. At least 72 consultation hours must be individual, face-to-face consultation. The remaining 24 consultation hours may be completed in group or by videoconference but not by telephone or any other audio-only technology;

- (3) For applicants whose master's degrees in social work are in nonclinical concentrations, 192 hours of consultation while licensed and concurrent with 6,400 hours of social work employment occurring within a period of not less than 4 years. Consultation may be completed in person, through video or audio-only technology, or any combination thereof, and may be completed through individual consultation or in a group of not more than 8 members.
- (4) As part of the foregoing consultation, regular, systematic discussion and evaluation of cases, focusing on data, goals, ethics, and objectives of specific social work practice; and
- (5) Documentation of the clinical supervision provided.

No less than 50% of the hours of consultation and social work employment described in this paragraph must have been completed within the 4 years immediately preceding application for licensure as a licensed clinical social worker.

Credit for consultation experience will only be given to practice in clinical settings such as organized public or private agencies, schools, institutions or other organizations which provide opportunities for contact with other professional disciplines and work experience with broad ranges of clients. Credit will not be given for private or self-employed practice.

For purposes of this level of licensure, "social work employment" consists entirely of work that is compensated financially.

- E. Completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

## **2. Partial Waiver of Clinical Experience and Consultation in Connection with Initial Licensure**

The board may waive up to 1 year of the clinical experience and consultation required for initial licensure pursuant to section 5(1)(D) of this chapter for a candidate who demonstrates to the satisfaction of the board lawful equivalent clinical experience and consultation that occurred prior to the applicant's receipt of the master's degree in social work.

## **3. Waiver of Clinical Experience and Consultation Completed in Another State**

For purposes of this section, the board may recognize clinical experience and consultation completed in another state following a candidate's receipt of the master's degree in social work or social welfare that is substantially equivalent to the clinical experience and consultation required by section 5(1)(D) of this chapter.

## **4. Renewal**

Completion of 25 continuing professional education contact hours as required by Chapter 14 of the board's rules.

## 6. **Certified Social Worker - Independent Practice**

### 1. **Initial Issuance**

This license is issued on a renewal basis only.

### 2. **Renewal**

Completion of 25 continued professional education contact hours as required by Chapter 14 of the board's rules.

## 7. **Change in Consultancy**

Both the consultant social worker and the consultee shall promptly notify the board within 10 days of the termination of a consultancy prior to full completion. The consultee shall immediately engage a replacement consultant and provide evidence of the new arrangement for consultation to the board as soon as practicable but no later than 10 days of the date of the agreement to provide consultation.

## 8. **Licensure Without Examination**

1. An individual applying for a license without examination pursuant to 32 M.R.S. § 7054-A must submit a complete application on a form provided by the Board, submit any fee required by Chapter 10 of the Rules of the Office of Professional and Occupational Regulation, and meet the following requirements:

### A. **Proof of License from Another Jurisdiction of the United States or Foreign Country**

An applicant must have an active equivalent social work license issued by a jurisdiction of the United States or of any foreign country.

### B. **Evidence of Meeting Education and Experience Requirements**

- (1) An applicant must supply documentation the education and experience requirements of 32 M.R.S. § 7053 and of this chapter for the level of licensure for which the applicant is applying.
- (2) The board may recognize clinical experience and consultation completed in another state or jurisdiction following a candidate's receipt of the master's degree in social work or social welfare that is substantially equivalent to the clinical experience and consultation required by Section 5(1)(D) of this chapter.
- (3) Notwithstanding any provision to the contrary, an applicant applying under this subsection does not need to demonstrate proof of passing the applicable examination.

### 2. **Applicants Licensed via Grandparenting in Home State**

The board may deny an application for licensure without examination when the applicant's social work license in the jurisdiction of origin was obtained by way of reciprocity or grandparenting and the qualifications of the applicant do not meet the requirements of these rules and 32 M.R.S. § 7053.

## **9. Inactive Status**

### **1. Initial Issuance**

A licensee may apply for an inactive status license pursuant to 32 M.R.S. § 7060. If a licensee applies for an inactive status license during the 3 months prior to the expiration date of the licensee's active license, the licensee shall demonstrate compliance with the continuing education requirements in Chapter 14 of the board's rules. The board may refuse to issue an inactive status license to a licensee who fails to demonstrate such compliance, or who is otherwise ineligible for renewal of an active license.

### **2. Prohibition against Practice**

A licensee with an inactive status license shall not practice social work in the State of Maine.

### **3. Continuing Education**

A licensee with an inactive status license need not comply with the continuing professional education requirement set forth in Chapter 14 of the board's rules. However, in order to return to active status, a licensee shall obtain continuing professional education contact hours as set forth in subsection 5.

### **4. Renewal**

To maintain inactive status, a licensee must renew an inactive status license by:

- A. Submitting a renewal application;
- B. Paying the license fee set forth in Chapter 10 of the rules of the Office of Professional and Occupational Regulation; and
- C. Providing such other information as the board may require.

### **5. Reinstatement to Active Status License**

A licensee with an inactive status license may return to active status by submitting an application to the board, paying the required license fee, and certifying to compliance with the continuing education requirements in Chapter 14 of the board's rules during the two-year period prior to application. In the event that a licensee applies to return to active status in less than one year, the licensee may satisfy the continuing professional education requirement by providing evidence of having met the requirement for the most recent renewal cycle.

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STATUTORY AUTHORITY: 32 M.R.S. §§ 7030(2), 7053, 7057 and 7060

EFFECTIVE DATE:

**Summary:** This chapter sets forth the nature and amount of continuing professional education contact hours required for renewal of licenses issued by the board.

---

~~1. Generally~~

1. Required Contact Hours

1. **25 Contact Hours Required for License Renewal**

Except as set forth in 10 M.R.S. ~~A-§ §~~ 8003(5-A)(D)(4), no license will be renewed unless the licensee has completed 25 contact hours of continuing professional education directly related to the practice of social work during the preceding biennial license term as set forth in this chapter and has completed the course work in family or intimate partner violence required by 32 M.R.S. § 7060, if applicable.

2. **Conditionally Licensed Social Workers: Ethics and Assessment**

For holders of a ~~conditional licensed~~ social worker conditional license ~~issued on or after January 1, 2004~~, at least 6 of the 25 contact hours must be earned in social work ethics and at least 6 of the 25 contact hours must be earned in psychosocial assessment.

3. **All Other Licensees: Ethics**

For all other licensees, ~~beginning with license renewals occurring after January 1, 2006~~, at least 4 of the 25 contact hours must be earned in social work ethics.

2. **Audit**

The licensee's attestation of completion of continuing professional education is subject to audit pursuant to Chapter 13 of the rules of the ~~Department Office~~ of Professional and ~~Financial Occupational~~ Regulation, ~~Office of Licensing and Registration~~, entitled "~~Uniform Rule for the Substantiation of Continuing Education Requirements.~~".

The licensee shall retain documentation of continuing education activities included in the most recent two continuing education certifications submitted by the licensee, including the current renewal period.

3. **Continuing Professional Education Activities**

Continuing professional education contact hours may be earned by in-person or virtual participation in the following activities only:

- ~~1. Seminars, Workshops and Institutes~~
- ~~2. Academic Courses~~
- ~~3. In-Service Training Sessions~~
- ~~4. Distance Learning Activities in Which Immediate Interaction With the Instructor is Available~~
- ~~5. Teaching, Writing, Audiotapes, Videotapes, Independent Study, Certain Distance Learning~~

- ~~1. At least 15 hours of educational activities, including seminars, workshops, institutes, academic courses, and in-service training sessions, in which immediate interaction with the instructor is available.~~

A maximum of 10 hours total is permitted to be earned through continuing professional education contained within subsections 2 and 3 below.

- ~~2. Educational activities, including seminars, workshops, institutes, academic courses, and in-service training sessions, in which immediate interaction with the following 3 categories: instructor is not available.~~

3. Teaching, Writing, Independent Study

- A. **Teaching.** A social worker licensee may claim continuing professional education credit for preparation and presentation of a course, workshop or seminar for the first time it is presented, only.
- B. **Writing.** A social worker licensee may claim continuing professional education credit for writing articles and books for publication, as well as for reviewing and editing articles and books.
- C. ~~**Audiotapes/disks, Videotapes/disks, and Independent Study.**~~ A licensee may claim continuing professional education credit only once for a particular ~~audiotape/disk, videotape/disk or~~ course of independent study. Continuing professional education credit may not be claimed for a course of independent study that is substantially similar to a course that the licensee has previously taken for credit during that same renewal period.

- ~~D. **Non-interactive distance learning.** Distance learning activities in which immediate interaction with the instructor is not available.~~

~~4. Board Approval of Certain Continuing Professional Education Activities~~

~~The board may pre-approve seminars, workshops and institutes for content and relevance to the practice of social work at the request of sponsors only. A licensee may claim continuing~~

~~professional education credit for activities that have not been pre-approved. However, credit may be denied upon audit if the activity does not meet the requirements of this chapter.~~

~~A seminar, workshop or institute for which pre-approval has been sought and denied is not eligible for continuing professional education credit.~~

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STATUTORY AUTHORITY: 32 M.R.S. ~~A.~~ § 7030(5)

EFFECTIVE DATE:

October 23, 2004 - filing 2004-464

**Summary:** This chapter sets forth the nature and amount of continuing professional education contact hours required for renewal of licenses issued by the board.

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**1. Required Contact Hours**

**1. 25 Contact Hours Required for License Renewal**

Except as set forth in 10 M.R.S. § 8003(5-A)(D)(4), no license will be renewed unless the licensee has completed 25 contact hours of continuing professional education directly related to the practice of social work during the preceding biennial license term as set forth in this chapter and has completed the course work in family or intimate partner violence required by 32 M.R.S. § 7060, if applicable.

**2. Conditionally Licensed Social Workers: Ethics and Assessment**

For holders of a social worker conditional license, at least 6 of the 25 contact hours must be earned in social work ethics and at least 6 of the 25 contact hours must be earned in psychosocial assessment.

**3. All Other Licensees: Ethics**

For all other licensees at least 4 of the 25 contact hours must be earned in social work ethics.

**2. Audit**

The licensee's attestation of completion of continuing professional education is subject to audit pursuant to Chapter 13 of the rules of the Office of Professional and Occupational Regulation.

The licensee shall retain documentation of continuing education activities included in the most recent two continuing education certifications submitted by the licensee, including the current renewal period.

**3. Continuing Professional Education Activities**

Continuing professional education contact hours may be earned by in-person or virtual participation in the following activities only:

1. At least 15 hours of educational activities, including seminars, workshops, institutes, academic courses, and in-service training sessions, in which immediate interaction with the instructor is available.

A maximum of 10 hours total is permitted to be earned through continuing professional education contained within subsections 2 and 3 below.

2. Educational activities, including seminars, workshops, institutes, academic courses, and in-service training sessions, in which immediate interaction with the instructor is not available.
3. Teaching, Writing, Independent Study
  - A. **Teaching.** A licensee may claim continuing professional education credit for preparation and presentation of a course, workshop or seminar for the first time it is presented only.
  - B. **Writing.** A licensee may claim continuing professional education credit for writing articles and books for publication, as well as for reviewing and editing articles and books.
  - C. **Independent Study.** A licensee may claim continuing professional education credit only once for a particular course of independent study. Continuing professional education credit may not be claimed for a course of independent study that is substantially similar to a course that the licensee has previously taken for credit during that same renewal period.

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STATUTORY AUTHORITY: 32 M.R.S. § 7030(5)

EFFECTIVE DATE:

October 23, 2004 - filing 2004-464

**Summary:** This chapter contains restrictions on the permissible scope of practice applicable to the different categories of licenses issued by the board, and related provisions.

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**1. Restrictions on Scope of Practice**

**1. Organic Mental Illness; Organic Therapy**

Pursuant to 32 M.R.S. § 7053-A, no social worker at any level may diagnose organic mental illness, as that term is defined in Board Rules, Chapter 10, subsection 12, or treat any illness by organic therapy.

**2. Mental Illness**

No licensed social worker—conditional, licensed social worker, LSW, LSW Conditional or licensed master social worker LMSW may diagnose or treat mental illness or emotional disorders.

**3. Mental Illness — Licensed Master Social Worker—Conditional Clinical (LMSW-cc) LMSW Conditional (Clinical)**

No licensed master social worker-conditional clinical LMCSW-cc LMSW Conditional (Clinical) may diagnose or treat mental illness or emotional disorders without the consultation required by Chapter 13, section 4(2)(B) or section 5(1)(D) of the board's rules.

**4. Private Practice - General**

No licensed social worker LSW or licensed social worker—conditional (LSW Conditional) may engage in the private practice of social work.

**5. Private Practice - Clinical**

No licensed social worker, licensed social worker—conditional, licensed master social worker or LMSW-cc licensed master social worker – conditional clinical LSW, LSW Conditional, LMSW or LMSW Conditional (Clinical) may engage in the private practice of clinical social work.

**2. Assurance of Examination by Physician**

For purposes of "psychosocial evaluation" as defined in 32 M.R.S. ~~A~~ §\_7001-A(10), a licensee has assured that a client has been examined by a physician in the course of psychosocial evaluation when the client has been encouraged to be examined and has been informed of the law requiring such assurance. If the client refuses this recommendation, or if a physician decides that an examination is not warranted or otherwise declines to provide the examination, the decision must be documented.

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STATUTORY AUTHORITY: 32 M.R.S. ~~A~~ §§\_7030(2) and 7053-A

EFFECTIVE DATE:

~~October 23, 2004—2004-465~~

**Summary:** This chapter contains restrictions on the permissible scope of practice applicable to the different categories of licenses issued by the board, and related provisions.

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**1. Restrictions on Scope of Practice**

**1. Organic Mental Illness; Organic Therapy**

Pursuant to 32 M.R.S. § 7053-A, no social worker at any level may diagnose organic mental illness, as that term is defined in board rules in Chapter 10, subsection 12, or treat any illness by organic therapy.

**2. Mental Illness**

No licensed social worker - conditional, licensed social worker, or licensed master social worker may diagnose or treat mental illness or emotional disorders.

**3. Mental Illness – Licensed Master Social Worker - Conditional Clinical**

No licensed master social worker - conditional clinical may diagnose or treat mental illness or emotional disorders without the consultation required by Chapter 13, section 4(2)(B) or section 5(1)(D) of the board's rules.

**4. Private Practice - General**

No licensed social worker or licensed social worker - conditional may engage in the private practice of social work.

**5. Private Practice - Clinical**

No licensed social worker, licensed social worker - conditional, licensed master social worker or licensed master social worker - conditional clinical may engage in the private practice of clinical social work.

**2. Assurance of Examination by Physician**

For purposes of “psychosocial evaluation” as defined in 32 M.R.S. § 7001-A(10), a licensee has assured that a client has been examined by a physician in the course of psychosocial evaluation when the client has been encouraged to be examined and has been informed of the law requiring such assurance. If the client refuses this recommendation, or if a physician decides that an examination is not warranted or otherwise declines to provide the examination, the decision must be documented.

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STATUTORY AUTHORITY: 32 M.R.S. §§ 7030(2) and 7053-A

EFFECTIVE DATE:

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL SERVICES**

**416 BOARD OF SOCIAL WORKER LICENSURE**

**Chapter 16: CODE OF ETHICS AND GROUNDS FOR DISCIPLINE ENFORCEMENT AND DISCIPLINARY PROCEDURES**

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**Summary:** ~~This chapter sets forth a licensee's right to appeal certain board actions.~~ This chapter also specifies the enforcement and disciplinary procedures used by the board and sets forth the board's interpretation of certain grounds for discipline contained in ~~10 M.R.S. § 8003(5-A)(A)~~ 32 M.R.S.A. §7059.

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**~~1. Appeal of License Denial or Disallowance of Continuing Professional Education~~**

~~Any license denial or disallowance of continuing professional education contact hours may be appealed to the board. Any appeal must be filed with the board by the licensee in writing within 30 days of receipt of notice of the board action complained of. An adjudicatory hearing will be scheduled upon receipt of a timely appeal. Non-timely appeals will be denied without hearing.~~

**~~2. Disciplinary Procedure~~**

~~The board will follow the procedures for investigating and processing complaints contained in the Administrative Complaint Procedure adopted by the Department of Professional and Financial Regulation, Office of Licensing and Registration for the professional and occupational licensing boards and registration programs administered by OLR.~~

**~~31.~~ Board Interpretation of Certain Grounds for Discipline**

The statutory grounds for discipline set forth in this subsection shall have the following meanings:

**1. Practice of Fraud or Deceit**

- A. The practice of fraud or deceit in obtaining a license includes, but is not limited to:
- (1) Falsification or misrepresentation of education or experience of an applicant;
  - (2) Falsification or misrepresentation of a recommendation from a consultant or peer;
  - (3) Cheating on a licensure examination;
  - (4) Intentionally withholding or misrepresenting any information requested on the application, including any information regarding criminal or disciplinary action taken by any state against an applicant; or

- (5) Impersonating another applicant.
- B. The practice of fraud or deceit in connection with services rendered as a social worker includes, but is not limited to:
  - (1) Intentionally practicing or attempting to practice, or aiding another to practice, beyond the scope of the license held;
  - (2) Intentionally misrepresenting the type or status of license held or qualifications to practice;
  - (3) Committing or aiding another to commit fraud, deceit or corruption in billing, payment or insurance reimbursement procedures;
  - (4) Intentionally false, misleading, or deceptive advertising; or
  - (5) Impersonating another licensee.

## 2. **Aiding or Abetting Unlicensed Practice**

Aiding or abetting a person not duly licensed as a social worker or other licensed health care practitioner to represent them/him/herself as licensed a social worker includes, but is not limited to:

- A. Assisting another to perform duties social work beyond the scope of the person's license or to perform duties that require licensure without a license;
- B. Knowingly supervising or providing consultation to an unlicensed person representing him/her/themself as licensed, or to a licensed person practicing beyond the scope of the license; or
- C. Knowingly making referrals to an unlicensed person representing them/him/herself as licensed, or to a licensed person practicing beyond the scope of the license.

## 3. **~~Gross Negligence, Incompetency or Misconduct~~**

~~Gross negligence, incompetency, or M~~isconduct in the practice of professional social work includes, but is not limited to:

- ~~A. Gross deviation from the appropriate standard of care in the provision of social work services;~~
- AB. Intentionally or recklessly causing physical or emotional harm to a client;
- BC. Failing to maintain the confidentiality of client information, except as otherwise required by law;
- CD. Practicing social work when physical or mental ability to practice is impaired by physical, psychological or mental impediment;

DE. Practicing social work when physical or mental ability to practice is impaired by ~~alcohol or drugs~~ substances;

EF. Use of alcohol or drugs, including but not limited to the recreational or medical use of marijuana or recreational use of tobacco, with a client;

~~G.~~ ~~Engaging in conduct which violates the Code of Ethics adopted by the National Association of Social Workers in 1996 and revised in 1999. The board incorporates the Code of Ethics into this chapter by reference. The Code of Ethics may be obtained from:~~

~~National Association of Social Workers  
750 First Street, NE, Suite 700  
Washington, DC 20002-4241  
<http://www.socialworkers.org>  
800-638-8799~~

~~In the event of any conflict or inconsistency between the NASW Code of Ethics and this chapter, the provisions of this chapter shall govern;~~

FH. Failure of a social worker to adequately supervise a supervisee, with supervisory responsibilities over a social worker, intern, or student, or other person over whom the social worker has supervisory responsibilities to adequately supervise that person;

GI. Failure of a consultant social worker to adequately perform the obligations of the consultancy or clinical internship;

HJ. Failure of a social worker with consulting, monitoring or supervisory responsibilities in connection with a board order or consent agreement to adequately perform the obligations of the engagement;

IK. Failure of a licensed social worker conditional or a licensed social worker to receive the consultation required by Chapter 13 of the board's rules;

JL. Practicing or attempting to practice beyond the scope of licensure;

KM. Abandoning or neglecting a client in need of social work assistance;

LN. Advertising in a false, misleading or deceptive manner;

MO. Paying, accepting, or soliciting any payment or consideration for the referral of a client;

NP. Falsifying or inaccurately recording client records;

OQ. Exercising undue influence on a client, including the promotion for sale of goods, services or drugs, so as to exploit the client for the financial gain of the social worker; or

- PR. Failure to report incidences of child or adult abuse or neglect as mandated by state law.

#### 4. Applicable Code of Ethics

The Board incorporates by reference the Code of Ethics adopted by the National Association of Social Workers (NASW), approved by the 1996 NASW Delegate Assembly and revised by the NASW Delegate Assembly in 2020, © 2021. The NASW Code of Ethics may be obtained from:

National Association of Social Workers  
750 First Street, NE, Suite 800  
Washington, DC 20002-4241  
<http://www.socialworkers.org>  
800-742-4089

In the event of any conflict or inconsistency between the NASW Code of Ethics and this chapter, the provisions of this chapter shall govern.

Any violation of the NASW Code of Ethics is a ground for discipline pursuant to 10 M.R.S. § 8003(5-A)(A)(2).

#### 54. Sexual Misconduct

Misconduct in the practice of professional social work includes, but is not limited to:

- A. Engaging in sexual misconduct with a client;
- B. Engaging in sexual misconduct with a former client;
- C. Engaging in sexual misconduct with a family member, including but not limited to a parent, grandparent, stepparent, sibling, stepsibling, child or stepchild, of a client or former client the client status of whom is known to the social worker at the time of the sexual misconduct;
- D. Engaging in sexual misconduct with a current or former spouse or significant other of a client or former client, the client status of whom is known to the social worker at the time of the sexual misconduct;
- E. Engaging in sexual misconduct with a current or former social work client who is receiving or has received services from the immediate agency or office where the social worker works in a professional capacity of the social worker's employer, the client status of whom is known to the social worker at the time of the sexual misconduct; or
- F. Engaging in sexual misconduct with a supervisee of the social worker.
- ~~F. Continuing to engage in sexual misconduct with a current or former social work client of the social worker's employer, the client status of whom was initially unknown to the social worker but is later discovered by the social worker.~~

It is an affirmative defense to the violations described in paragraphs (B) - (F) of this subsection-

- that the client or former client has not been exploited, coerced, or intentionally or unintentionally manipulated by the social worker; and
- that the emotional stability and mental health of the client or former client has not been jeopardized or adversely affected by the violation.

The social worker bears the full burden of proving all elements of this affirmative defense. This affirmative defense is not available to excuse violations of paragraph (A) of this subsection, *i.e.*, engaging in sexual misconduct with a client.

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STATUTORY AUTHORITY: 32 M.R.S. ~~A.~~ §§ 7030(2) and 7059

EFFECTIVE DATE:

October 23, 2004 - filing 2004-466

**Chapter 16: CODE OF ETHICS AND GROUNDS FOR DISCIPLINE**

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**Summary:** This chapter sets forth the board's interpretation of certain grounds for discipline contained in 10 M.R.S. § 8003(5-A)(A).

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**1. Board Interpretation of Certain Grounds for Discipline**

The statutory grounds for discipline set forth in this subsection shall have the following meanings:

**1. Practice of Fraud or Deceit**

- A. The practice of fraud or deceit in obtaining a license includes, but is not limited to:
- (1) Falsification or misrepresentation of education or experience of an applicant;
  - (2) Falsification or misrepresentation of a recommendation from a consultant or peer;
  - (3) Cheating on a licensure examination;
  - (4) Intentionally withholding or misrepresenting any information requested on the application, including any information regarding criminal or disciplinary action taken by any state against an applicant; or
  - (5) Impersonating another applicant.
- B. The practice of fraud or deceit in connection with services rendered as a social worker includes, but is not limited to:
- (1) Intentionally practicing or attempting to practice, or aiding another to practice, beyond the scope of the license held;
  - (2) Intentionally misrepresenting the type or status of license held or qualifications to practice;
  - (3) Committing or aiding another to commit fraud, deceit or corruption in billing, payment or insurance reimbursement procedures;
  - (4) Intentionally false, misleading, or deceptive advertising; or
  - (5) Impersonating another licensee.

## 2. **Aiding or Abetting Unlicensed Practice**

Aiding or abetting a person not duly licensed as a social worker or other licensed health care practitioner to represent themselves as licensed includes, but is not limited to:

- A. Assisting another to perform duties beyond the scope of the person's license or to perform duties that require licensure without a license;
- B. Knowingly supervising or providing consultation to an unlicensed person representing themselves as licensed, or to a licensed person practicing beyond the scope of the license; or
- C. Knowingly making referrals to an unlicensed person representing themselves as licensed, or to a licensed person practicing beyond the scope of the license.

## 3. **Misconduct**

Misconduct in the practice of professional social work includes, but is not limited to:

- A. Intentionally or recklessly causing physical or emotional harm to a client;
- B. Failing to maintain the confidentiality of client information, except as otherwise required by law;
- C. Practicing social work when physical or mental ability to practice is impaired by physical, psychological or mental impediment;
- D. Practicing social work when physical or mental ability to practice is impaired by substances;
- E. Use of alcohol or drugs, including but not limited to the recreational or medical use of marijuana or recreational use of tobacco, with a client;
- F. Failure of a social worker to adequately supervise a supervisee, intern, student, or other person over whom the social worker has supervisory responsibilities;
- G. Failure of a consultant social worker to adequately perform the obligations of the consultancy or clinical internship;
- H. Failure of a social worker with consulting, monitoring or supervisory responsibilities in connection with a board order or consent agreement to adequately perform the obligations of the engagement;
- I. Failure of a licensed social worker conditional or a licensed social worker to receive the consultation required by Chapter 13 of the board's rules;
- J. Practicing or attempting to practice beyond the scope of licensure;
- K. Abandoning or neglecting a client in need of social work assistance;
- L. Advertising in a false, misleading or deceptive manner;

- M. Paying, accepting, or soliciting any payment or consideration for the referral of a client;
- N. Falsifying or inaccurately recording client records;
- O. Exercising undue influence on a client, including the promotion for sale of goods, services or drugs, so as to exploit the client for the financial gain of the social worker; or
- P. Failure to report incidences of child or adult abuse or neglect as mandated by state law.

#### 4. **Applicable Code of Ethics**

The Board incorporates by reference the Code of Ethics adopted by the National Association of Social Workers (NASW), approved by the 1996 NASW Delegate Assembly and revised by the NASW Delegate Assembly in 2020, © 2021. The NASW Code of Ethics may be obtained from:

National Association of Social Workers  
750 First Street, NE, Suite 800  
Washington, DC 20002-4241  
<http://www.socialworkers.org>  
800-742-4089

In the event of any conflict or inconsistency between the NASW Code of Ethics and this chapter, the provisions of this chapter shall govern.

Any violation of the NASW Code of Ethics is a ground for discipline pursuant to 10 M.R.S. § 8003(5-A)(A)(2).

#### 5. **Sexual Misconduct**

Misconduct in the practice of professional social work includes, but is not limited to:

- A. Engaging in sexual misconduct with a client;
- B. Engaging in sexual misconduct with a former client;
- C. Engaging in sexual misconduct with a family member, including but not limited to a parent, grandparent, stepparent, sibling, stepsibling, child or stepchild, of a client or former client the client status of whom is known to the social worker at the time of the sexual misconduct;
- D. Engaging in sexual misconduct with a current or former spouse or significant other of a client or former client, the client status of whom is known to the social worker at the time of the sexual misconduct;
- E. Engaging in sexual misconduct with a current or former social work client who is receiving or has received services from the immediate agency or office where the

social worker works in a professional capacity, the client status of whom is known to the social worker at the time of the sexual misconduct; or

F. Engaging in sexual misconduct with a supervisee of the social worker.

It is an affirmative defense to the violations described in paragraphs (B) - (F) of this subsection-

- that the client or former client has not been exploited, coerced, or intentionally or unintentionally manipulated by the social worker; and
- that the emotional stability and mental health of the client or former client has not been jeopardized or adversely affected by the violation.

The social worker bears the full burden of proving all elements of this affirmative defense. This affirmative defense is not available to excuse violations of paragraph (A) of this subsection, *i.e.*, engaging in sexual misconduct with a client.

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STATUTORY AUTHORITY: 32 M.R.S. §§ 7030(2) and 7059

EFFECTIVE DATE:

October 23, 2004 - filing 2004-466

**Summary:** This chapter sets forth client record retention requirements.

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1. **Generally**

A licensee who is employed by or affiliated with an agency or other institution shall retain client records as required by the employing or affiliated agency or institution. A licensee shall comply with all of the employing or affiliated agency or institution policies concerning the retention of client records.

2. **Private Practice**

A licensee in private practice, as defined in 32 ~~MRS.~~M.R.S. § 7001-A(9), who generates client records other than as a licensee affiliated with an agency or other institution, shall comply with the following requirements for those records:

1. **Record Retention**

A licensee shall retain all client records for at least 7 years after the client's last date of service or date of death, except that:

- A. Records for a minor client shall be retained for at least 7 years after the client reaches the age of 18.
- B. In the event that a licensee receives information that a client is involved in litigation in which the client's records may be relevant, the licensee shall retain the client's records until the matter is resolved by the court.

2. **Record Destruction**

A licensee may destroy client records when the applicable retention period has expired, as follows:

- A. Paper client records shall be destroyed through the use of a secure shredding system.
- B. Electronic client records shall be destroyed through a technologically appropriate process that renders the records unreadable, indecipherable, and incapable of being reconstructed.

3. **Continuing Obligation After Licensure Ends**

In the event that a licensee no longer holds a license, client records generated in the course of the licensee's private practice must be retained in accordance with this chapter.

STATUTORY AUTHORITY: 32 ~~MRS~~ M.R.S. § 7030(2)

EFFECTIVE DATE:

January 25, 2016 – filing 2016-008

**Summary:** This chapter sets forth client record retention requirements.

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**1. Generally**

A licensee who is employed by or affiliated with an agency or other institution shall retain client records as required by the employing or affiliated agency or institution. A licensee shall comply with all of the employing or affiliated agency or institution policies concerning the retention of client records.

**2. Private Practice**

A licensee in private practice, as defined in 32 M.R.S. § 7001-A(9), who generates client records other than as a licensee affiliated with an agency or other institution, shall comply with the following requirements for those records:

**1. Record Retention**

A licensee shall retain all client records for at least 7 years after the client's last date of service or date of death, except that:

- A. Records for a minor client shall be retained for at least 7 years after the client reaches the age of 18.
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In the event that a licensee no longer holds a license, client records generated in the course of the licensee's private practice must be retained in accordance with this chapter.

STATUTORY AUTHORITY: 32 M.R.S. § 7030(2)

EFFECTIVE DATE:

January 25, 2016 – filing 2016-008

**Chapter 18: TELEHEALTH**

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**SUMMARY:** This Chapter implements the provisions of P.L. 2021, c. 291 (32 M.R.S. §§ 7071 *et seq.*) by establishing standards of practice and appropriate restrictions for when social workers use telehealth to provide services to clients.

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**1. License Required**

1. Any social worker who provides social work services through telehealth shall meet the following requirements:
  - A. All social workers shall have an active Maine license in good standing; and
  - B. During the delivery of services through telehealth, the client shall be located within the borders of the State of Maine. Social workers are responsible for taking reasonable steps to verify the physical location of a client before providing services.
2. Social workers providing services via telehealth to a client physically located in any other jurisdiction are responsible for ensuring they comply with all laws and rules of that jurisdiction before providing services to a client located in that jurisdiction.

**2. Standards of Practice and Professional Conduct for Telehealth**

1. Social workers who choose to provide telehealth services shall:
  - A. At all times comply with Title 32, Chapter 83 of the Maine Revised Statutes, the board's rules and current standard of care requirements applicable to onsite care; and
  - B. Establish and maintain competence in the use of telehealth through continuing education, consultation, or other procedures.
2. The social worker shall use telehealth to deliver services only when it is appropriate for the client. Decisions regarding the appropriate use of telehealth shall be made on a case-by-case basis. The social worker shall conduct a risk-benefit analysis and document that:
  - A. The client's presenting problems and apparent condition are consistent with the use of telehealth to the client's benefit; and
  - B. The client has sufficient knowledge and skills in the use of the technology involved in rendering the service or can use a personal aid or assistive device to benefit from the service.

3. Social workers shall regularly review and evaluate whether delivery of services through telehealth is appropriate and continues to meet the goals of services. A social worker who determines that services cannot be provided through telehealth shall advise the client to obtain services in-person, and, when necessary, refer clients to another professional.
4. Social workers shall attempt to identify a contact person who the social worker may contact on the client's behalf in a life-threatening emergency only.
5. The following are exempt from this Chapter:
  - A. Electronic communication used to schedule appointments, billing, and/or the establishment of benefits and eligibility for services; and,
  - B. In the context of an in-person client relationship, telephone or other electronic communications made for the purpose of ensuring client welfare in accord with reasonable professional judgment.

#### **4. Informed Consent**

1. At the outset of providing services by telehealth, the social worker shall obtain informed consent from the client, or other appropriate person with authority to make health care decisions for the client. Social workers shall assess clients' ability to provide informed consent.
2. At a minimum, the informed consent shall inform the client of:
  - A. The benefits and risks of using telehealth in the provision of social work services. Examples of potential benefits include, but are not limited to, immediate access to services, convenient scheduling, privacy, and reduced or eliminated transportation barriers. Examples of potential risks include, but are not limited to, the lack of visual and auditory cues, delayed responses, the need for crisis services, confidentiality breaches, and technological failures.
  - B. The potential risks to confidentiality of information due to the use of telehealth, such as the risks of entering private information when using a public access computer, or one that is on a shared network, and caution against using auto-fill usernames and passwords.
  - C. The needs associated with the delivery of services via telehealth technology, for example having access to a computer or smartphone with the correct capabilities or internet access.
  - D. The risk of the sudden and unpredictable failure of technology and alternative means of contacting the client if technology fails during a session with the client, and provide to the client alternative means of contacting the social worker.
  - E. The local crisis telephone number and/or the local emergency mental health telephone number.

- F. Receiving services via telehealth may affect billing and access to insurance benefits.
3. The social worker will obtain written permission of the client prior to recording any part of the telehealth session and will disclose how the social worker will store and dispose of the recording file(s). If a recording is made a part of the clinical record, social workers shall retain and dispose of in accordance with Chapter 17 of board rules.
4. Clients should be given sufficient opportunity to ask questions and receive answers about telehealth services, and social workers shall revisit relevant informed consent issues as needed during the course of the client relationship.
5. Social workers shall maintain a record of the efforts to provide the information in this section.

## **5. Confidentiality**

Social workers who choose to provide telehealth services shall:

1. At a minimum, ensure that the electronic communication is secure to maintain confidentiality of the client's health and/or educational information as required by the Health Insurance Portability and Accountability Act (HIPAA) and other applicable Federal and State laws.
2. Absent exigent circumstances, strive to deliver telehealth services in private settings, with no other persons present who can see or hear the client while telehealth services are being delivered.
3. Social workers shall develop and disclose policies and procedures for notifying clients as soon as possible of any breach of confidential information.

## **6. Boundaries, Dual Relationships, and Conflicts of Interest**

1. Social workers who choose to provide telehealth services shall:
  - A. At all times maintain professional decorum and provide services in an appropriate setting. This means ensuring only an appropriate background is visible, whether virtual or the background of the physical setting where the social worker is located when providing services.
  - B. Ensure that they maintain professional boundaries when they use technology and set clear expectations with clients necessary to maintain those boundaries.

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STATUTORY AUTHORITY: 32 M.R.S. §§ 7030(2), 7071-7075

EFFECTIVE DATE: