

148th GENERAL ASSEMBLY

BILL NO.

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO CLINICAL SOCIAL WORK.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 39, Title 24 of the Delaware Code by making deletions as shown by strike through as follows:

CHAPTER 39. BOARD OF ~~CLINICAL~~ SOCIAL WORK EXAMINERS

Section 2. Amend § 3901, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 3901 Objectives of the Board.

The primary objective of the Board of ~~Clinical~~ Social Work Examiners, to which all other objectives and purposes are secondary, is to protect the general public (specifically those persons who are direct recipients of services regulated by this chapter) through the effective control and regulation of the practice of ~~clinical~~ social work; the licensure, control and regulation of persons who practice ~~clinical~~ social work within Delaware, from unsafe practices, and from occupational practices which tend to reduce competition or fix the price of services rendered. The secondary objectives of the Board are to maintain minimum standards of licensee ~~practitioner~~ competency, and to maintain certain standards in the delivery of services to the public. In meeting its objectives, the Board shall develop standards assuring professional competency; shall monitor complaints brought against licensees ~~practitioners~~ regulated by the Board; shall adjudicate at formal ~~complaint~~ hearings; shall promulgate rules and regulations; and shall impose sanctions where necessary against licensees ~~practitioners~~.

Section 3. Amend § 3902, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 3902 Definitions.

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

(a) Except as otherwise provided in this chapter, reference to the terms “social work” or “social worker” shall be applicable to the practice of Baccalaureate Social Work, Master’s Social Work and Clinical Social Work.

(b) The following definitions shall apply to this chapter, unless otherwise expressly stated or implied by the context:

(1) “Baccalaureate Social Work” is the entry level of professional social work practice and shall mean the application of social work theory, knowledge, methods, ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. Baccalaureate Social Work is basic generalist practice that substantially includes assessment, planning, intervention, evaluation, case management, information and referral, counseling, supervision, consultation, education, advocacy, community organization, and the development, implementation, and administration of policies, programs and activities. Baccalaureate social work may be practiced only in organized settings such as social, medical or governmental agencies and may not be practiced independently.

(2) “Baccalaureate Social Worker” shall mean a person duly licensed under this chapter to practice Baccalaureate Level Social Work.

(3) "Board" shall mean the Board of ~~Clinical~~ Social Work Examiners.

(4) "Clinical social work" shall mean the application of social work theory, ethics and methods, as applied to the clinical, therapeutic relationship, which may include the person-in-environment perspective, to the assessment, diagnosis, prevention and treatment of biopsychosocial dysfunction, disability and impairment, including mental and emotional disorders, developmental disabilities and substance abuse. The application of social work method and theory includes, but is not restricted to, assessment (excluding administration of the psychological tests which are reserved exclusively for use by licensed psychologists pursuant to Chapter 35 of this title), diagnosis, treatment planning and psychotherapy with individuals, couples, families and groups, case management, advocacy, crisis intervention, as related to the clinical, therapeutic relationship, and supervision of and consultation about clinical social work practice.

(5) “Clinical Social Worker” shall mean a person duly licensed under this chapter to practice Clinical Social Work.

(6) “Clinical Supervision” means an interactional professional relationship between a supervisor and a social worker that provides evaluation and direction over the supervisee’s practice of clinical social work and promotes continued development of the social worker’s knowledge, skills and abilities to engage in the practice of clinical social work in an ethical and competent manner, as set forth in the Board’s rules and regulations.

(7) "Division" shall mean the Division of Professional Regulation.

~~(83)~~ "Independent practice" means the practice of ~~clinical~~ social work services by a ~~clinical social worker practitioner~~ who assumes responsibility for the nature and quality of the services provided to the client in exchange for direct payment or third-party payment.

~~(4) "Licensed clinical social worker" shall mean any individual duly licensed under this chapter.~~

~~(5) "Practitioner," as used in this chapter, shall mean any individual engaged in the practice of clinical social work.~~

(9) "Licensee" shall mean a person duly licensed under this chapter.

(10) "Master's Social Work" shall mean the application of social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, of biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. Master's Social Work practice includes the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, counseling, supervision, consultation, education, research, advocacy, community organization and the development, implementation, and administration of policies, programs and activities. Under supervision as provided in the rules and regulations, the practice of Master's Social Work may include the practices reserved to Clinical Social Workers. Master's social work may be practiced only in organized settings such as social, medical or governmental agencies and may not be practiced independently.

(11) "Master's Social Worker" shall mean a person duly licensed under this chapter to practice Master's Social Work.

(12) "State" shall mean the State of Delaware.

~~(136)~~ "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of social work.

(14) "Supervision" shall mean the professional relationship between a supervisor and a social worker that provides evaluation and direction over the services provided by the social worker and promotes continued development of the social worker's knowledge, skills and abilities to provide social work services in an ethical and competent manner.

(15) "Use or abuse of drugs" shall mean any use of narcotics, controlled substances or illegal drugs without a prescription from a licensed physician or

professional licensed to prescribe and/or the abuse of an alcoholic beverage such that it impairs a person's ability to perform the work of a social worker.

Section 4. Amend Chapter 39, Title 24 of the Delaware Code by making insertions as shown by underlining:

§ 3903 Telepractice.

The practice of Baccalaureate Social Work, Master's Social Work or Clinical Social Work to an individual in this State, through telephonic, electronic, or other means, regardless of the location of the social worker, shall constitute the practice of social work and shall be subject to regulation under this chapter.

Section 5. Amend § 3903, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 3904~~3903~~ License required.

(a) [Effective upon the date of enactment] No person shall engage in the practice of Clinical Social Work or hold himself or herself out to the public in this State as being qualified to practice the same; or use in connection with that person's name, or otherwise assume or use, any title or description conveying or tending to convey the impression that the person is qualified to practice Clinical Social Work, unless such person is duly licensed under this chapter.

(a) [Effective two years after the date of enactment] No person shall engage in the practice of Baccalaureate Social Work, Master's Social Work or Clinical Social Work or hold himself or herself out to the public in this State as being qualified to practice the same; or use in connection with that person's name, or otherwise assume or use, any title or description conveying or tending to convey the impression that the person is qualified to practice Baccalaureate Social Work, Master's Social Work or Clinical Social Work, unless such person is duly licensed under this chapter.

(b) Whenever a license to practice Baccalaureate Social Work, Master's Social Work or Clinical Social Work has expired or has been suspended or revoked, it shall be unlawful for the person to practice such profession in this State.

(c) This chapter shall not apply to:

(1) A person who is currently licensed and in good standing to practice social work in another jurisdiction and who makes prior written application to the Board, upon Board approval, such person may practice social work in this State within the scope of practice designated by such license no longer than 30 days per year. The

individual who provides services under this section shall be deemed to have submitted to the jurisdiction of the Board and bound by the laws of this State.

(2) A person, who is certified or licensed in this State by any other law, and who is engaged in and acting within the scope of the profession or occupation for which that person is certified or licensed.

(3) Clergy of any denomination when engaging in activities which are within the scope of the performance of that person's regular or specialized ministerial duties.

~~(a) No person shall engage in the independent practice of clinical social work or hold himself or herself out to the public in this State as being qualified to practice the same; or use in connection with that person's name, or otherwise assume or use, any title or description conveying or tending to convey the impression that the person is qualified to practice clinical social work, unless such person has been duly licensed under this chapter. A person who provides the Board with proof, to the Board's satisfaction, no later than February 1, 2011, that such person has practiced clinical social work for at least 20 years and is currently practicing clinical social work, shall be exempted from this provision, except that such person shall be required to show successful completion of the Association of Social Work Boards (ASWB) clinical examination.~~

~~(b) Whenever a license to practice clinical social work in this State has expired or has been suspended or revoked, it shall be unlawful for the person to practice clinical social work in this State.~~

Section 6. Amend § 3904, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ ~~3905~~3904 Board of ~~Clinical~~ Social Work Examiners — Appointment; composition; qualifications; term of office; suspension or removal; ~~unexcused absences~~; compensation.

(a) The Board of ~~Clinical Social Work Examiners~~ shall consist of 7 members appointed by the Governor: Four professional members, consisting of 2 Clinical Social Workers, and 2 at-large professional members, who may be Clinical Social Workers, Master's Social Workers or Baccalaureate Social Workers, ~~who shall be licensed clinical social workers,~~ and 3 public members. To serve on the Board, a public member shall not be, nor ever have been, a ~~clinical~~ social worker, nor a member of the immediate family of a ~~clinical~~ social worker; shall not have been employed by a social work agency; shall not have had a material financial interest in the providing of goods and services to ~~clinical~~ social workers; nor have been engaged in an activity directly related to ~~clinical~~ social work. Such public members shall be accessible to inquiries, comments and suggestions from the general public.

(b) Each member shall serve for a period of 3 years, and may succeed himself or herself for 1 additional term; ~~provided, however, that where a member was initially appointed to fill a vacancy, such member may succeed himself or herself for only 1 additional full term.~~ Any person appointed to fill a vacancy on the Board shall hold office for the

~~remainder of the unexpired term of the former member.~~ Each term of office shall expire on the date specified in the appointment; however, the Board member shall remain eligible to participate in Board proceedings until replaced by the Governor., except that each member shall serve until a successor is duly appointed.

(c) A person who has never served on the Board may be appointed to the Board 2 consecutive ~~terms~~ ~~times~~; but, no such person shall thereafter be eligible for 2 consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for 6 years within any 9-year period, shall again be appointed to the Board until an interim period of at least 1 term has expired since such person last served.

(d) A member of the Board shall be suspended or removed by the Governor for misfeasance, nonfeasance, malfeasance, or neglect of duty. A member subject to disciplinary proceedings shall be disqualified from Board business until the charge is adjudicated, or the matter is otherwise concluded. A Board member may appeal any suspension or removal to the Superior Court.

(e) No member of the Board while serving on the Board shall be a president, chairperson or other elected official of a professional association for social workers.

(f) Any act or vote by a person appointed in violation of this provision shall be invalid. An amendment or revision of this chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c) of this provision unless such an amendment or revision amends this provision to permit such an appointment.

(g) Any member who is absent without adequate reason for 3 consecutive meetings or fails to attend at least half of all regular business meetings during any calendar year shall be guilty of neglect of duty.

~~(h)~~ (f) The provisions set forth for employees in Chapter 58 of Title 29, shall apply to all members of the Board, and to all agents appointed or otherwise employed by the Board.

~~(i)~~ (g) Board members shall be reimbursed for all necessary expenses involved in each meeting, including travel, according to the uniform policy for reimbursement of expenses established by the Division of Professional Regulation; and, in addition, shall receive not more than \$50 for each meeting attended, but not more than \$500 in any calendar year. After 10 meetings have been attended, the member shall not be compensated for any subsequent meetings attended in that year.

Section 7. Amend § 3905, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ ~~3906~~~~3905~~ Board of ~~Clinical~~ Social Work Examiners — Organization; ~~o~~Officers; meetings; quorum.

(a) In the same month of each year the members shall elect, from among their number, a President, a Vice-President and a Secretary. Each officer shall serve for 1 year, and may serve no more than 2 consecutive years in the same office.

(b) The Board shall hold regularly scheduled business meetings at least once in each quarter of a calendar year, and at such other times as the President deems necessary, or at the request of a majority of the Board members.

(c) A majority of members shall constitute a quorum for the purpose of transacting business, and no disciplinary action shall be taken without the affirmative vote of at least 4 members.; ~~and no action shall be taken without the affirmative vote of at least 4 members. Any member who fails to attend 3 consecutive meetings, or who fails to attend at least 1/2 of all regular business meetings during any calendar year, shall automatically upon such occurrence be deemed to have resigned from office and a replacement shall be appointed.~~

(d) Minutes of all meetings shall be recorded; and, copies shall be maintained by the ~~Division of Professional Regulation~~. At any hearing where evidence is presented, a record from which a verbatim transcript can be prepared shall be made. The expense of preparing any transcript shall be incurred by the person requesting it.

Section 8. Amend § 3906, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 3907 ~~3906~~ Board of ~~Clinical~~ Social Work Examiners — Powers and duties.

(a) The Board shall have the authority to:

(1) Formulate rules and regulations, with appropriate notice to those affected; all rules and regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act of this State [Chapter 101 of Title 29]. Each rule or regulation shall implement or clarify a specific section of this chapter;

(2) Designate the application form to be used by all applicants, and to process all applications;

(3) Designate a written national examination, prepared by either the national professional association or by a recognized legitimate national testing service and approved by the ~~Division of Professional Regulation~~. The examination shall be prepared for testing on a national basis, and not specifically prepared at the request of the Board for its individual use. The national examination shall be taken by persons applying for licensure, except applicants who qualify for licensure by reciprocity;

~~(4) Provide for the administration of all examinations, including notice and information to applicants;~~

~~(4)~~ Evaluate certified records to determine whether an applicant for licensure, who has been previously licensed, certified or registered in another jurisdiction to practice ~~clinical~~ social work, has engaged in any act or offense that would be grounds for

disciplinary action under this chapter and whether there are disciplinary proceedings or unresolved complaints pending against such applicants for such acts or offenses;

~~(56)~~ Grant licenses to all persons who meet the qualifications for licensure and/or renewal of licenses;

~~(67)~~ Establish by rule and regulation continuing education standards required for license renewal;

~~(78)~~ Refer all complaints from licensees and the public concerning practitioners, or concerning practices of the Board or of the profession, to the Division of Professional Regulation for investigation pursuant to § 8735(h) of Title 29; and, assign a member of the Board to assist the Division in an advisory capacity with the investigation of the technical aspects of the complaint. Such member shall recuse himself or herself from the deliberations on the complaint;

~~(9)~~ Determine whether or not a practitioner shall be the subject of a disciplinary hearing; and, if so, to conduct such hearing in accordance with this chapter and the Administrative Procedures Act [Chapter 101 of Title 29];

~~(810)~~ Conduct hearings and issue orders in accordance with procedures established pursuant to this chapter, Chapter 101 of Title 29, and § 8735 of Title 29. ~~Where such provisions conflict with the provisions of this chapter, this chapter shall govern;~~

~~(911)~~ Where it has been determined after a disciplinary hearing, that penalties or sanctions should be imposed, to designate and impose the appropriate sanction or penalty after time for appeal has lapsed;

(10) Perform random post-renewal audits of continuing education credits submitted by licensees for license renewal;

(11) Request copies of supervisory logs from applicants, as set forth in the rules and regulations;

(12) Promulgate rules and regulations pertaining to telepractice;

~~(1312)~~ Bring proceedings in the courts for the enforcement of this chapter.

(b) The Board of ~~Clinical~~ Social Work Examiners shall promulgate regulations specifically identifying those crimes, which are substantially related to ~~clinical~~ social work.

63 Del. Laws, c. 462, § 2; 70 Del. Laws, c. 143, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 262, § 89.;

Section 9. Amend § 3907, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ ~~3908~~3907 Qualifications of applicants; report to Attorney General; judicial review.

(a) An applicant who is applying for examination and licensure under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

~~(1) Has received a doctoral or master's degree in clinical social work from a college or university accredited by the Council on Social Work Education. In addition, the applicant shall submit proof satisfactory to the Board that, subsequent to the receipt of a master's degree from an accredited school of social work, the applicant has acquired 2 years of clinical social work experience acceptable to the Board. The clinical social work experience shall consist of not less than 3,200 hours, at least 1,600 hours of which shall have been under professional supervision acceptable to the Board. Acceptable supervision shall mean supervision by a licensed clinical social worker. When such supervision is not available, the applicant may be supervised by a master's level degree social worker, a licensed psychologist, or a licensed psychiatrist. Persons holding degrees from programs outside the United States or its territories must provide evidence of training and degree equivalent to accredited programs. These applicants are responsible for providing the Board with an educational credential evaluation from an agency or institution recognized by the Board for this purpose;~~

~~(12) Has not engaged in any of the acts or offenses that would be grounds for disciplinary action under this chapter,; has no disciplinary proceedings or unresolved complaints pending against that person in any jurisdiction where the applicant previously has been, or currently is, licensed to practice clinical social work. Applicants who have been or who currently are licensed to practice clinical social work in another jurisdiction must provide the Board with a certified statement to this effect from the Board, or from a comparable agency of each jurisdiction in which the applicant has ever been licensed to practice clinical social work. Applicants for licensure in this State shall be deemed to have given consent to the release of such information and to waive all objections to the admissibility of such evidence;~~

~~(23) Has not been convicted of a felony sexual offense;~~

~~(34) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:~~

~~a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.~~

~~b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board of Clinical Social Worker Examiners shall be the screening point for the receipt of said federal criminal history records.~~

~~An applicant may not be licensed as a clinical social worker until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction may not be certified by the Board unless a waiver is granted pursuant to this chapter. The State Bureau of Identification may release any subsequent criminal history to the Board;~~

~~(45) Shall not have any impairment related to drugs or alcohol or a finding of mental incompetence by a physician, licensed mental health professional or licensed or certified substance abuse professional that would limit the applicant's ability to~~

undertake the practice of ~~clinical~~ social work in a manner consistent with the safety of the public; ~~and~~

(5) Shall not have been convicted of a crime that is substantially related to social work or any offense which would limit the ability of the practitioner to carry out the practitioner's professional duties with due regard for the health and safety of clients; however, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(5), if it finds all of the following:

a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

c. The applicant is capable of practicing social work in a competent and professional manner.

d. The granting of the waiver will not endanger the public health, safety or welfare.

e. The applicant has not been convicted of a felony sexual offense.

(6) Shall submit reports from Child and Adult Abuse Registries in Delaware and from every state in which the applicant has ever been licensed, employed or has resided as an adult.

(7) Shall provide such information as may be required on an application form furnished by the Board. No application form shall require a picture of the applicant; require information relating to citizenship, place of birth, length of state residency; nor require personal references.

(b) Clinical Social Worker. An applicant who is applying for licensure as a Clinical Social Worker, shall submit evidence, verified by oath and satisfactory to the Board, that such applicant meets the following requirements for licensure:

(1) Meets the requirements of Section 3908(a);

(2) Has graduated and received a doctoral or master's degree in social work from a program accredited by the Council on Social Work Education, or its successor;

(3) Has successfully passed an examination prescribed by the Board; and

(4) [Effective upon date of enactment] Has completed two years of supervised experience approved by the Board, under the supervision of a licensed clinical social worker, after receiving a doctoral or master's degree. If an applicant can demonstrate, to the Board's satisfaction, and pursuant to the Board's rules and regulations, that supervision by a licensed clinical social worker was not available, the applicant may be supervised by a master's level degree social worker, a licensed psychologist or a licensed psychiatrist. Such supervised experience shall meet all other requirements set forth in the Board's rules and regulations.

(4) [For supervision beginning two years after the date of enactment] Has completed two years of supervised experience approved by the Board, under the supervision of a licensed clinical social worker, after receiving a doctoral or master's degree. Such supervised experience shall meet all other requirements set forth in the Board's rules and regulations. The supervising licensed clinical social worker shall have two years of clinical experience and, every two years, shall complete continuing education in supervision, as set forth in the Board's rules and regulations.

(c) [Effective two years after the date of enactment] Master's Social Worker. An applicant who is applying for licensure as a Master's Social Worker, shall submit evidence, verified by oath and satisfactory to the Board, that such applicant meets the following requirements for licensure:

(1) Meets the requirements of Section 3908(a);

(2) Has graduated and received a master's degree in social work from a program accredited by the Council on Social Work Education, or its successor; and

(3) Has successfully passed an examination prescribed by the Board.

(d) [Effective two years after the date of enactment] Baccalaureate Social Worker. An applicant who is applying for licensure as a Baccalaureate Social Worker, shall submit evidence, verified by oath and satisfactory to the Board, that such applicant:

(1) Meets the requirements of Section 3908(a);

(2) Has graduated and received a baccalaureate degree in social work from a program accredited by the Council on Social Work Education, or its successor; and

(3) Has successfully passed an examination prescribed by the Board.

~~(e)~~ Where the Board has found, to its satisfaction, that an application is fraudulent, or that false information has been intentionally supplied, it shall report its findings to the Attorney General for further action.

~~(f)~~ Where the application of a person has been refused or rejected, and such applicant feels that the Board has acted without justification; has imposed higher or different standards for the applicant than for other applicants or licensees; or has in some other manner contributed to or caused the failure of such application, the applicant may, within 30 days of such denial, appeal the Board's decision to the Superior Court.

~~(d) All individuals licensed as a clinical social worker in this State shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2013, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check.~~

Section 10. Amend § 3908, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ ~~3909~~3908 Examination.

(a) The Board, in its rules and regulations, shall designate the national examinations for licensure as a Clinical Social Worker, Master's Social Worker, or Baccalaureate Social Worker.

(b) The applicant may take the designated national written examination a maximum of three times during the two year application period.

~~(a) The Board shall administer, in the same month of each year, or at such times as are determined by the American Association of State Social Work Boards (AASSWB), or its successor, a national clinical examination prepared by the American Association of State Social Work Boards, or its successor. Such national written examination shall be obtained from and graded by the American Association of State Social Work Boards, or its successor. There is no limit on the number of times that an applicant may sit for the national examination.~~

~~(c)~~ In the event the applicant has already taken and passed the national clinical examination prepared by the American Association of State Social Work Boards, or its successor, the certificate or other evidence of successful completion shall be accepted, and no further state examination shall be necessary.

Section 11. Amend § 3908, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ ~~3910~~3909 Reciprocity.

(a) Upon payment of the appropriate fee and submission and acceptance of a written application on forms provided by the Board, the Board shall grant a license to an applicant who:

(1) Has presented proof of current licensure in “good standing” in another state, the District of Columbia, or territory of the United States whose standards for licensure are substantially similar to those of this State. An applicant with a license from a state with less stringent requirements than those of this State may obtain a license by reciprocity if the applicant can prove to the satisfaction of the Board that the applicant has worked in another jurisdiction or jurisdictions in the field for which he or she is seeking a license in Delaware for a period of 5 years within the 7 years immediately preceding application in this State. A license in “good standing” is defined in § 3908(a)(1) – (7);

(2) Has presented proof that, in all states in which the applicant is or was licensed, the applicant's license is in good standing as defined in § 3908(a)(1) – (7);

(3) The applicant shall provide to the Board a certified statement as to whether there are any outstanding or ongoing disciplinary actions and/or ethical violations against the applicant or whether the applicant has engaged in any of the acts or offenses that would be grounds for disciplinary action under this chapter. Applicants for licensure as licensed social workers in this State shall be deemed to have given consent to the release of such information and to waive all objections to the admissibility of such information as evidence at any hearing or other proceeding to which the applicant may be subject.

~~An applicant for licensure who is licensed as a clinical social worker in another state shall meet all of the qualifications for licensure under §§ 3907 and 3908 of this title. The applicant shall contact the American Association of State Social Work Boards, or its successor, and obtain and provide to the Board a certified statement as to whether there are any outstanding or ongoing disciplinary actions and/or ethical violations against the applicant or whether the applicant has engaged in any of the acts or offenses that would be grounds for disciplinary action under this chapter. In the event that a disciplinary proceeding or unresolved complaint is pending, the applicant shall not be licensed in this State until the proceeding or complaint has been resolved. Applicants for licensure as licensed clinical social workers in this State shall be deemed to have given consent to the release of such information and to waive all objections to the admissibility of such information as evidence at any hearing or other proceeding to which the applicant may be subject. Each application for licensure shall be accompanied by payment of the application fee.~~

Section 12. Amend § 3910, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ ~~3911-3910~~ Fees.

The amount to be charged for each fee imposed under this chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Board as well as the

proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board. There shall be a separate fee charged for each service or activity; but, no fee shall be charged for a purpose not specified in this chapter. ~~The application fee shall not be combined with any other fee or charge. At the beginning of each calendar year the Division of Professional Regulation, or any other state agency acting in its behalf, shall compute, for each separate service or activity, the appropriate Board fees for the coming year.~~

Section 13. Amend § 3911, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 3912 ~~3911~~ Issuance of license; renewal; inactive status; ~~reinstatement~~.

(a) The Board shall issue a license to each applicant who meets the requirements of this chapter for licensure as a ~~clinical~~ social worker and who pays the fee established under § 3911 ~~3910~~ of this chapter ~~title~~.

(b) Each license shall be renewed biennially, in such a manner as is determined by the Division of Professional Regulation, and upon payment of the appropriate fee ~~and submission of a renewal form provided by the Division of Professional Regulation, and attestation proof~~ that the licensee has met the continuing education requirements established by the Board. The license will expire on January 31 of the renewal year. A late fee shall be set by the Division of Professional Regulation. If a licensee practitioner fails to renew the license in 1 year from the renewal date, the licensee practitioner must re-apply for licensure.

(c) Any licensee, upon written request, may be placed in an inactive status for up to 3 ~~4~~ years. ~~The Board may extend the inactive status for additional 1 year periods upon written request of the licensee.~~ The renewal fee of a licensee on inactive status will be prorated in accordance with the amount of time a person is on inactive status. The licensee may re-activate his or her license ~~re-enter practice~~ after written notification to the Board of the licensee's intent to do so and after satisfying all the continuing education requirements for the last renewal period and paying the appropriate renewal fee. If the licensee does not re-activate his or her license within three years, the licensee must re-apply for licensure.

(d) A former licensee, whose license has been revoked, and not permanently revoked, ~~and who subsequently is permitted to apply for reinstatement~~, shall apply for a new license, and shall successfully complete the national clinical examination and shall pay all appropriate fees.

Section 14. Amend § 3912, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 3913 ~~3912~~ Continuing education.

The Board shall require licensees to complete at least 45 ~~at least 45~~ continuing education hours for each biennial licensing period, as set forth in the rules and regulations. ~~Continuing education may consist of, but not be limited to, additional professional development in the~~

~~field of clinical social work, including attendance at workshops, seminars, lectures and preparation of a first-time clinical course.~~

~~If a licensee shall be unable to complete the required continuing education hours during any biennial licensing period, the Board may extend, for good cause shown by the licensee, the time to complete the required number of hours up to 120 days after the close of the biennial licensing period. The Board shall set forth by regulation the procedures that shall be applicable to such extensions. Such regulations may provide that each application for an extension be accompanied by an appropriate administrative fee as determined by the Division of Professional Regulation.~~

Section 15. Amend § 3913, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 3914 ~~3913~~ Privileged communications.

No licensed ~~clinical~~ social worker may disclose any information acquired from persons consulting the social worker in a professional capacity except:

- (1) With the written consent of such person; or in the case of death or disability, the written consent of such person's personal representative;
- (2) That a licensed ~~clinical~~ social worker shall not be required to treat as confidential a communication that reveals the planning of any violent crime or act;
- (3) That any licensed ~~clinical~~ social worker who knows or reasonably suspects child abuse or neglect shall make a report to the Division of Family Child Protective Services of the Department of Services for Children, Youth and Their Families according to § 904 of Title 16;
- (4) When the person waives the privilege by bringing charges against the licensed ~~clinical~~ social worker.

Section 16. Amend § 3914, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 3915 ~~3914~~ Complaints.

All complaints shall be received and investigated by the Division in accordance with § 8735 of Title 29, and the Division shall be responsible for issuing a final written report at the conclusion of its investigation.

~~A practitioner or member of the public desiring to file a complaint against a practitioner or licensee regulated by the Board shall file a written complaint with the Division of Professional Regulation. All complaints shall be received and investigated by the Division of Professional Regulation in accordance with the procedures as specified in § 8735(h) of Title 29. The Division shall be responsible for issuing a final written report at the conclusion of the investigation.~~

Section 17. Amend § 3915, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§3916 ~~3915~~ Grounds for discipline; procedure.

(a) Licensees or former licensees ~~Practitioners regulated under this chapter~~ shall be subject to those disciplinary actions set forth in § 3917 ~~3916~~ of this chapter ~~title~~ if, after a hearing, the Board finds that the licensee ~~practitioner~~ has:

(1) Employed or knowingly cooperated in fraud or material deception in order to be licensed as a ~~clinical~~ social worker; has impersonated another person holding a license, or allowed another person to use the licensee's ~~practitioner's~~ license, or aided or abetted a person not licensed as a ~~clinical~~ social worker to represent himself or herself as a ~~clinical~~ social worker;

(2) Illegally, incompetently or negligently practiced ~~clinical~~ social work;

(3) Currently uses or abuses drugs.

~~(3) Excessively used or abused drugs either in the past or currently; excessive use or abuse of drugs shall mean any use of narcotics, controlled substances, or illegal drugs without a prescription from a licensed physician, or the abuse of alcoholic beverage such that it impairs the practitioner's ability to perform the work of a clinical social worker;~~

(34) Has been convicted of a crime that is substantially related to the practice of clinical social work; ~~or any offense which would limit the ability of the practitioner to carry out the practitioner's professional duties with due regard for the health and safety of clients; however, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(4), if it finds all of the following:~~

~~a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of practicing clinical social work in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

e. ~~The applicant has not been convicted of a felony sexual offense;~~

~~(45)~~ Violated a lawful provision of this chapter, or any lawful regulation established thereunder;

~~(56)~~ Had the licensee's practitioner's license, certification or registration as a ~~clinical~~ social worker suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Board by certified record; ~~and the Board has determined that the facts found by the appropriate authority in the other jurisdiction constitute 1 or more of the acts defined in this chapter.~~ Every person licensed as a ~~clinical~~ social worker in this State shall be deemed to have given consent to the release of this information by the Board of ~~Clinical~~ Social Work Examiners or other comparable agencies in another jurisdiction and to waive all objections to the admissibility of previously adjudicated evidence of such acts or offenses;

~~(67)~~ Failed to notify the Board that the licensee practitioner's license as a ~~clinical~~ social worker in another state has been subject to discipline, or has been surrendered, suspended or revoked. A certified copy of the record of disciplinary action, surrender, suspension or revocation shall be conclusive evidence thereof;

~~(78)~~ Has been convicted of a felony sexual offense;

~~(89)~~ Failed to report child abuse or neglect as required by § 903 of Title 16, or any successor thereto;

~~(10)~~ Failed to report to the Division of Professional Regulation as required by § 3919 of this title.

(b) Where a licensee practitioner fails to comply with the Board's request that the licensee practitioner attend a hearing, the Board may petition the Superior Court to order such attendance, and the said Court or any judge assigned thereto shall have jurisdiction to issue such order.

(c) Subject to the provisions of this chapter and subchapter IV of Chapter 101 of Title 29, no license shall be restricted, suspended or revoked by the Board, and no licensee's practitioner's right to practice shall be limited by the Board, until such licensee practitioner has been given notice and an opportunity to be heard in accordance with the Administrative Procedures Act.

Section 18. Amend § 3916, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ ~~3917~~3916 Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that any of the conditions or violations set forth in § 3915 of this title applies to a licensee practitioner ~~regulated by this chapter~~:

(1) Issue a letter of reprimand;

~~(2) Censure a practitioner;~~

~~(23)~~ Place a licensee practitioner on probationary status, and require the licensee practitioner to:

a. Report regularly to the Board upon the matters which are the basis of the probation;

b. Limit all practice and professional activities to those areas prescribed by the Board; and/or

c. Continue or renew the licensee's practitioner's professional education until the required degree of skill has been attained in those areas which are the basis of the probation;

~~(34)~~ Suspend any licensee's practitioner's license;

~~(45)~~ Revoke a licensee's practitioner's license;

~~(5)~~ Permanently revoke a licensee's license;

~~(6)~~ Impose a monetary penalty not to exceed \$10,000 for each violation.

(b) The Board may withdraw or reduce conditions of probation when it finds that the deficiencies which required such action have been remedied.

(c) In the event of a formal or informal complaint concerning the activity of a licensee that presents a clear and immediate danger to the public health, safety or welfare, the Board may temporarily suspend the person's license, pending a hearing, upon the written order of the Secretary of State or the Secretary's designee, with the concurrence of the Board chair or the Board chair's designee. An order temporarily suspending a license may not be issued unless the person or the person's attorney received at least 24 hours' written or oral notice before the temporary suspension so that the person or the person's attorney may file a written response to the proposed suspension. The decision as to whether to issue the temporary order of suspension will be decided on the written submissions. An order of temporary suspension pending a hearing may remain in effect for no longer than 60 days from the date of the issuance of the order unless the temporarily suspended person requests a continuance of the hearing date. If the temporarily suspended person requests a continuance, the order of temporary suspension remains in effect until the hearing is convened and a decision is rendered by the Board. A person whose license has been temporarily suspended pursuant to this section may request an expedited hearing. The Board shall schedule the hearing on an expedited basis, provided that the Board receives the request within 5 calendar days from the date on which the person received notification of the decision to temporarily suspend the person's license.

(d) Where a license has been suspended due to a disability of the licensee, the Board, at a Board meeting, may reinstate such license if the Board is satisfied that the licensee is able to practice with reasonable skill and safety.

(e) As a condition of reinstatement of a suspended license, or removal from probationary status, the Board may impose such disciplinary or corrective measures as are authorized under this chapter.

(f) The Board shall permanently revoke the license of any person who the Board determines has violated § ~~3916~~(a)(8) of this title.

Section 19. Amend § 3917, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ ~~3918~~³⁹¹⁷ Hearing procedures.

(a) If a complaint is filed with the Board pursuant to § 8735 of Title 29 alleging violation of § 3916 of this chapter, the Board shall set a time and place to conduct a hearing on the complaint. Notice of the hearing shall be given and the hearing shall be conducted in accordance with the Administrative Procedures Act, Chapter 101 of Title 29.

(b) Where the licensee is in disagreement with the action of the Board, the licensee may appeal the Board's decision to the Superior Court within 30 days of the day that notice of the decision is mailed. Upon such appeal the Court shall hear the evidence on the record. Stays shall be granted in accordance with § 10144 of Title 29.

~~(a) If a complaint is filed with the Board pursuant to § 8735(h) of Title 29, alleging violation of § 3915 of this title, the Board shall set a time and place to conduct a hearing on the complaint. Notice of the hearing shall be given and the hearing conducted in accordance with the Administrative Procedures Act, Chapter 101 of Title 29.~~

~~(b) All hearings shall be informal without use of rules of evidence. If the Board finds, by a majority vote of all members, that the complaint has merit, the Board shall take such action permitted under this chapter as it deems necessary. The Board's decision shall be in writing and shall include its reasons for such decision. The Board's decision shall be mailed immediately to the practitioner.~~

~~(c) Where the practitioner is in disagreement with the action of the Board, the practitioner may appeal the Board's decision to the Superior Court within 30 days of service, or of the postmarked date of the copy of the decision mailed to the practitioner. Upon such appeal the Court shall hear the evidence on the record. Stays shall be granted in accordance with § 10144 of Title 29 of the Delaware Code.~~

Section 20. Amend § 3918, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ ~~3919~~³⁹¹⁸ Penalties.

A person not currently licensed under this chapter as a social worker when guilty of engaging in the practice of social work, or using in connection with that person's name, or otherwise assuming or using any title or description conveying, or tending to convey the

impression that the person is qualified to practice social work, such offender shall be guilty of a misdemeanor. Upon the first offense, that person shall be fined not less than \$500 nor more than \$1,000 for each offense. For a second or subsequent conviction, the fine shall be not less than \$1,000 nor more than \$2,000 for each offense. Superior Court shall have jurisdiction over all violations of this chapter.

~~(a) Where the Board has reason to believe that a person is holding himself or herself out to be a clinical social worker within this State without having lawfully obtained a license or that a person previously licensed under this chapter is holding himself or herself out to be a clinical social worker, notwithstanding that the person's license has been suspended or revoked, the Board shall submit a written complaint to the Division of Professional Regulation for investigation. If the investigation confirms such unlawful conduct, the Board shall formally warn such person. If the offense continues, the Board shall make a formal complaint to the Attorney General and may issue a cease and desist order. The complaint and/or order shall include all evidence known to or in possession of the Board.~~

~~(b) Where the Board has placed a practitioner on probationary status under certain restrictions or conditions, and the Board has determined that such restrictions or conditions are being or have been violated by the practitioner, the Board, after a hearing on the matter, may suspend or revoke the practitioner's license.~~

~~(c) Where a person not currently licensed as a clinical social worker under this chapter is convicted of violating this chapter, such offender, upon the first offense, shall be fined not less than \$500 nor more than \$1,000 for each offense, and the offender shall pay all costs. Each day a violation continues shall constitute a separate offense. The Court shall order all client fees received for unlawful service to be refunded.~~

~~(1) Justices of the peace in the county in which the offense is alleged to have occurred shall have jurisdiction over any violation of this chapter.~~

~~(2) Any person convicted of any such offense before a justice of the peace or in any court of competent jurisdiction, other than the Superior Court, may appeal to the Superior Court in the county in which the conviction was had upon giving bond in the sum of \$200 to this State with surety satisfactory to such justice or trial court; provided, however, that the appeal is taken and bond given within 7 days from the time of the conviction.~~

~~(d) A violation of this chapter shall be cause for revocation of any license issued thereunder, notwithstanding that the same violation may constitute a misdemeanor or felony.~~

Synopsis

This Bill revises the Board's licensing law to make it consistent with the laws of other Title 24 Boards. In particular, the Bill revises the provisions pertaining to Board membership and duties and available disciplinary sanctions. This Bill places a cap on the number of times that an applicant may take the licensing examination and amends the supervised experience requirements for licensure as a clinical social worker. In addition, the Board's powers and duties are expanded. Most significantly, the bill implements multi-tier licensure. Effective two years

after the date of enactment, all individuals practicing “social work,” as set forth in new definitions, must be licensed as either a clinical social worker, master’s social worker or baccalaureate social worker. Multi-tier licensure will serve to protect the public in that individuals practicing social work will fall within the Board’s jurisdiction.