

## **CHAPTER 43-41 SOCIAL WORKERS**

### **43-41-01. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the North Dakota board of social work examiners.
2. "Client" means the individual, couple, family, group, organization, or community that seeks or receives social work services from an individual licensed social worker or an organization, regardless of whether the licensed social worker or organization bills or accepts or requests the payment of fees for the services.
3. "Clinical supervision for licensure" means an interactional professional relationship between a clinical supervisor which meets the standards adopted by the board and a social worker and which provides evaluation and direction over the supervisee's practice of clinical social work in preparation for the social worker's licensure as a licensed clinical social worker, in accordance with the requirements adopted by the board, and promotes 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.
4. "Consultation" means an advisory professional relationship between a social worker and an individual with particular expertise, with the social worker legally and ethically maintaining responsibility for all judgments and decisions regarding service to the client.
5. "Counseling" means a method used by a social worker to assist an individual, couple, family, or group in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.
6. "Electronic social work services" means the use of a computer, including the internet, social media, online chat, text, and electronic mail, or other electronic means, such as a wireless communications device, landline telephone, or video technology, to provide information to the public, deliver social work services to a client, communicate with a client, manage confidential information and case records, store and access information about clients, and arrange payment for professional services.
7. "Licensed baccalaureate social worker" means an individual licensed under this chapter to practice baccalaureate social work.
8. "Licensed clinical social worker" means an individual licensed under this chapter to practice clinical social work.
9. "Licensed master social worker" means an individual licensed under this chapter to practice masters social work.
10. "Private practice of social work" means the independent practice of social work by a licensee who is practicing within that licensee's scope of practice, and who is self-employed on a full-time or part-time basis and is responsible for that independent practice. Consultation services provided to an organization or an agency are not considered to be the private practice of social work.
11. "Psychotherapy" means the use of treatment methods utilizing a specialized, formal interaction between a licensed clinical social worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained, and sustained to understand unconscious processes; intrapersonal, interpersonal, and psychosocial dynamics; and the assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions, or addictions.
12. "Social work case management" means a method to plan, provide, evaluate, and monitor services by a licensed social worker from a variety of resources on behalf of and in collaboration with a client.
13. "Social work practice" means 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. The scope of practice for licensees of the board consist of the following:

- a. The practice of baccalaureate social work, which includes 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 generalist practice that includes assessment, planning, implementation, intervention, evaluation, research, social work case management, information and referral, counseling, supervision, consultation, education, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities.
- b. The practice of masters social work, which includes, in addition to the practice of baccalaureate social work, the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation, intervention, evaluation, social work 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 the supervision of a licensed clinical social worker, the practice of masters social work may include the practices reserved to licensed clinical social workers.
- c. The practice of clinical social work, which includes, in addition to the practice of baccalaureate social work and the practice of masters social work, the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, treatment planning, implementation and evaluation, social work case management information and referral, counseling, supervision, consultation, education, research, advocacy, community organization, the development, implementation, intervention, and administration of policies, programs, and activities, and the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. Treatment methods include the provision of individual, marital, couple, family, and group counseling and psychotherapy. The practice of clinical social work may include the provision of clinical supervision.

**43-41-02. Social work practice - Exceptions.**

1. Nothing in this chapter may be construed to prevent any person from doing work within the standards and ethics of that person's profession and calling, provided that the person does not present to the public, by title or description of services, that the person is engaging in social work practice.
2. This chapter may not be construed to prevent students who are enrolled in programs of study leading to social work degrees from interning with a licensed baccalaureate social worker, a licensed master social worker, or a licensed clinical social worker.
3. Nothing in this chapter prevents the employment of, or volunteering by, individuals in nonprofit agencies or community organizations provided these persons do not hold themselves out to the public as being social workers.
4. Nothing in this chapter prevents the employment of social work designees by hospitals, basic care facilities, or skilled nursing facilities, provided these individuals work under the direction of a social worker or social work consultant licensed under this chapter and that the board be notified of the name of the designee's employer and the name of the licensee who is providing direction or consultation to the designees.
5. This chapter does not require public or appointed officials or administrators, acting in that capacity, or any other social or human service administrators who do not hold themselves out to the public as social workers, by title or description of services, to be licensed under this chapter.
6. This chapter does not prevent individuals with master's or doctoral degrees in the field of counseling with specialization in mental health from serving as counselors or therapists in mental health in state institutions or regional human service centers, if they do not hold themselves out to the public as social workers.

#### **43-41-03. Representation to the public.**

1. Only those persons licensed to practice under this chapter may represent themselves as a licensed baccalaureate social worker, licensed master social worker, or licensed clinical social worker.
2. The license issued by the board under the provisions of this chapter must be prominently displayed at the principal place of business where the social worker practices.

#### **43-41-04. Licenses - Rules.**

1. Except as otherwise provided in this chapter, a person may not engage in social work practice in this state unless that person is a licensed baccalaureate social worker, a licensed master social worker, or a licensed clinical social worker.
2. To obtain a license to engage in the practice of social work, an applicant shall submit an application to the board in the form prescribed by the board and provide evidence satisfactory to the board the applicant:
  - a. Has attained the age of majority.
  - b. Has passed the examination approved by the board for the license sought.
  - c. Has satisfied the board the applicant agrees to adhere to the code of social work ethics adopted by the board.
  - d. Is of good moral character. As an element of good moral character, the board shall consider the applicant's adherence to values, principles, and ethical standards consistent with professional social work practice, and shall also consider information obtained through reports made under section 43-41-04.2 in licensure decisions to the extent permissible by all applicable laws.
  - e. Has paid all applicable fees specified by the board relative to the licensure process.
3. An applicant for licensure for the practice of:
  - a. Baccalaureate social work must demonstrate having been awarded a baccalaureate degree in social work from a social work program approved by the board.
  - b. Masters social work must demonstrate having been awarded a doctorate or master's degree in social work from a social work program approved by the board.
  - c. Clinical social work must demonstrate:
    - (1) Having been awarded a doctorate or master's degree in social work from a social work program approved by the board.
    - (2) The successful completion, within a four-year period, of three thousand hours of supervised post-master's clinical social work experience. The initial one thousand five hundred of the required hours must have been under the supervision of a licensed clinical social worker. Additional hours of supervision may be under other qualified mental health professionals approved by the board if barriers due to the geographical location, disability, or other factors determined by the board to create a hardship exist for the applicant. The qualified professional must be registered or otherwise qualified as a clinical supervisor by the board that licenses the other professional. However, if an applicant began supervised post-master's clinical social work experience before August 1, 2009, a licensed master social worker who has two years of experience, a licensed psychologist with a doctorate degree, or a licensed psychiatrist may have supervised the required hours. The applicant may demonstrate to the board's satisfaction that experience in the practice of clinical social work meets or exceeds the minimum supervisory requirements of the board.
4. The board may adopt rules pertaining to the supervision required under this section.

#### **43-41-04.1. Fees.**

The board shall set by rule the following fees:

1. Application fee.
2. License fee.
3. Renewal fee.
4. Late fee.
5. Administrative fees.
6. Continuing education fees.

**43-41-04.2. Criminal history record and child abuse and neglect checks.**

1. The board shall require each applicant for licensure and may require any licensee to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided in section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant.
2. The board shall require from each applicant for licensure and may require from any licensee written consent to a child abuse information index check and authorization for the department of health and human services or its designee to release to the board reports of decisions that services are required for child abuse or neglect filed pursuant to section 50-25.1-05.2. All information obtained from the department or its designee is confidential and closed to the public except that it may be disclosed for use in an adjudicative or judicial proceeding. All costs associated with obtaining the reports are the responsibility of the applicant or licensee.

**43-41-05. Private practice of social work.**

A person may not engage in the private practice of social work unless that person has been licensed by the board as a licensed clinical social worker.

**43-41-05.1. Electronic social work services.**

1. The practice of social work in this state through electronic social work services or other means, regardless of the location of the practitioner, constitutes the practice of social work and is subject to this chapter.
2. The practice of social work by a practitioner in this jurisdiction through electronic social work services or other means, regardless of the location of the client, constitutes the practice of social work and is subject to this chapter.
3. A social worker providing electronic social work services shall take all necessary measures to ensure compliance with relevant practice standards as established by the board.

**43-41-06. Waiver of requirements.**

Repealed by S.L. 1997, ch. 379, § 8.

**43-41-07. Qualification for licensure by an applicant licensed in another jurisdiction.**

1. An applicant may be granted a license upon:
  - a. Satisfactory proof to the board that the applicant is licensed in good standing under the laws of another jurisdiction that imposes substantially the same requirements as this chapter; or
  - b. Determination of the board that at the time of application for licensure under this section the applicant is licensed in good standing under the laws of another jurisdiction and possesses qualifications or experience in the practice of social work which are substantially similar to the minimum requirements for licensure under this chapter.
2. The applicant shall pay the licensure fees specified by the board.

**43-41-08. Board of social work examiners - Qualifications - Appointment - Term of office - Compensation.**

1. The governor shall appoint the North Dakota board of social work examiners, which must consist of seven members, two of whom must be, at the time of initial appointment, licensed baccalaureate social workers; one of whom must be, at the time of initial appointment, a licensed master social worker; two of whom must be, at the time of initial appointment, a licensed clinical social worker; and two of whom must be laypersons. Board members must demonstrate no conflict of interest.
2. The term of office of each board member must be for three years with no more than three members appointed annually. A member may not serve more than two consecutive terms.
3. The governor may remove any board member for good cause after giving that member a written statement of the reasons for removal and after that member has had an opportunity for a hearing.
4. Each member of the board is entitled to receive as compensation a sum not to exceed the daily compensation of members of the legislative assembly per day for each day during which the member is engaged in performance of the official duties of the board, and is entitled to be reimbursed for all reasonable and necessary expenses incurred in connection with the discharge of the official duties as provided in section 54-06-09.
5. Annually, board members shall elect by a majority vote of the board a chairperson who shall preside at meetings of the board and a vice chairperson who shall preside at meetings of the board in the chairperson's absence. A majority of the members of the board constitutes a quorum.

**43-41-09. Duties and responsibilities of board.**

In addition to the duties set forth elsewhere in this chapter, the board shall:

1. Adopt rules to administer and carry out the provisions of this chapter.
2. Produce an annual list of the names and level of licensure of all persons licensed under this chapter and make the list available upon request.
3. At its discretion, employ staff and provide for staff compensation.
4. License social workers. The board may:
  - a. Suspend the use of an examination for licensure.
  - b. Waive examination requirements and create a process under which an applicant may apply for a waiver to licensure examination requirements.
  - c. Create alternative requirements that do not require an examination to ascertain the qualifications and fitness of a candidate for a license to engage in the practice of social work.
5. Establish fees and receive all moneys collected under this chapter.
6. Deposit and disburse all fees and moneys collected by the board in accordance with section 54-44-12.
7. Recommend prosecution for violations of this chapter to the appropriate state's attorney.
8. Recommend the attorney general bring civil actions to seek injunctive and other relief against violations of this chapter.
9. Establish continuing education requirements for license renewal.
10. Adopt a code of social work ethics.

**43-41-10. Grounds for disciplinary proceedings.**

1. The board may deny, refuse to renew, suspend, revoke, reprimand, restrict, or limit the license of, or place on probationary status any license issued under this chapter on proof at a hearing the applicant or licensed person:
  - a. Has been convicted of an offense determined by the board to have a direct bearing upon that individual's ability to practice social work or is not sufficiently rehabilitated as determined by the board in accordance with section 12.1-33-02.1.

- b. Is addicted to the habitual use of alcoholic beverages, narcotics, or stimulants or other addictive substances that impair the social worker's ability to practice social work.
  - c. Has been grossly negligent in the practice of social work.
  - d. Has violated one or more of the rules and regulations of the board.
  - e. Has violated the code of social work ethics adopted by the board.
  - f. Has failed to make a report to the board as required under section 43-41-11.1.
2. In order to pursue the investigation, the board may subpoena and examine witnesses and records, including client records, and copy, photograph, or take samples. The board may require a licensed social worker to give statements under oath. The board may require a licensed social worker to submit to a physical, chemical, or mental examination, by a physician or physicians or other qualified evaluation professionals selected by the board if it appears to be in the best interests of the public that an examination be secured. The board may require a licensee to enroll in a treatment or monitoring program approved by the board if the board determines in good faith to do so would be beneficial to the licensee or protect the public. Failure to satisfactorily undergo an examination or enroll in a treatment and monitoring program must be reported to the board by the treating professional. Treating professionals are immune from any liability for reporting made in good faith. A licensee is deemed to consent to the treating professional of the approved evaluation, or the approved treatment and monitoring program, reporting to the board on the results of the examination or the progress of the treatment or monitoring program, at such intervals the board deems necessary. The approved examination, or treatment or monitoring program, may release examination information, or treatment or monitoring information, to the board so the board may evaluate the results of the examination or the licensee's progress in and the effectiveness of the treatment or monitoring program. A written request from the board constitutes authorization to release information. Absent a client release on file allowing the release of information, all client records released to the board are confidential and are not public records.
  3. Unless there is a client release on file allowing the release of information at the public hearing, client and juvenile records introduced or client and juvenile testimony of a personal nature taken at a public hearing is confidential and closed to the public. The portions of board meetings at which client and juvenile testimony or records are taken or reviewed are confidential and closed to the public. If no client or juvenile testimony or records are taken or reviewed, the remainder of the meeting is an open meeting unless a specific exemption is otherwise applicable.
  4. Until the board proceeds with disciplinary action, the complaint, the response, and any record received by the board during an investigation of a complaint under this section are exempt records, as defined in section 44-04-17.1.

#### **43-41-11. Hearings and disciplinary proceedings - Appeals.**

1. Upon the filing of a written and signed complaint that alleges that a licensee practicing in this state has engaged in conduct identified as grounds for disciplinary action under section 43-41-10, and which sets forth information upon which a reasonable and prudent person might believe that further inquiry should be made, the board shall cause the matter to be investigated.
2. The board may investigate a complaint on its own motion, without requiring the identity of the complainant to be made a matter of public record, if the board concludes that good cause exists for preserving the anonymity of the complainant.
3. If the investigation reveals no grounds to support the complaint, the board, three years following the date on which the complaint was filed, shall expunge the complaint from the social worker's individual record in the board's office.
4. If the investigation reveals grounds to support the complaint, the board shall initiate a disciplinary action by serving upon the licensee a notice of disciplinary action setting forth the allegations upon which the action is based, as well as a specification of the issues to be considered and determined.

5. If a written response contesting the allegations is not received by the board within twenty days of the date that the notice of disciplinary action was received or refused, the allegations must be deemed admitted and disciplinary sanctions deemed appropriate by the board must be imposed.
6. The board may at any time enter into an informal resolution to resolve the complaint or disciplinary action.
7. An appeal from the board's final decision may be taken in accordance with the provisions of section 28-32-42.
8. The board shall recover costs of the board resulting from a hearing or disciplinary process:
  - a. If an order is issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct a licensee found as a result of the proceeding to have violated any laws or rules to pay to the board a sum not to exceed the costs of the investigation and fees of the attorneys representing the board in the matter. The costs to be assessed must be fixed by the administrative law judge and may not be increased by the board.
  - b. If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for payment in the district court of Burleigh County. This right of enforcement is in addition to any other rights the board may have as to any person directed to pay costs. In any action for recovery of costs, proof of the board's decision is conclusive proof of the validity of the order of payment and the terms for payment.

#### **43-41-11.1. Permission to report - Immunity.**

An individual who has knowledge of conduct by an applicant or a licensee which may constitute grounds for disciplinary action under this chapter or the rules of the board or of any unlicensed practice under this chapter may report the violation to the board. An individual is immune from civil liability or criminal prosecution for submitting in good faith a report under this chapter or for otherwise reporting, providing information, or testifying about violations or alleged violations of this chapter.

#### **43-41-11.2. Duty to report - Immunity.**

A licensed social worker who has substantial evidence a licensee has an active addictive disease for which the licensee is not receiving treatment under a program approved by the board under an agreement entered under this section, is diverting a controlled substance, or is mentally or physically incompetent to carry out the duties of the license, shall report the evidence to the board. An individual who reports under this section in good faith and without malice is immune from any civil or criminal liability arising from the report. Failure to provide a report within a reasonable time may be considered grounds for disciplinary action against the licensee.

#### **43-41-12. Renewal of licenses.**

1. All licenses are effective when granted by the board.
2. All licenses of licensed baccalaureate social workers, licensed master social workers, and licensed clinical social workers expire on December thirty-first of every odd-numbered year.
3. A license may be renewed by payment of the renewal fee and completion of the continuing education requirements set by the board, provided the applicant's license is not currently revoked or grounds for denial under section 43-41-10 do not exist.
4. If the application for renewal is not received on or before the expiration date, the license expires and the person may not practice social work until a new application is made and a license is granted by the board.
5. At the time of renewal the board may require each applicant to present satisfactory evidence the applicant completed the continuing education requirements specified by the board.

6. If a license has not been renewed as a result of nonpayment of the renewal fee or the failure of the licensee to present satisfactory evidence of completion of the continuing education requirements, the licensee must reapply for licensure.
7. The board may extend the renewal deadline for an applicant having proof of medical or other hardship rendering the applicant unable to meet the renewal deadline.

**43-41-12.1. Inactive license - Surrender.**

Repealed by S.L. 1997, ch. 379, § 8.

**43-41-13. Bribery - False statements.**

Repealed by S.L. 2009, ch. 359, § 14.

**43-41-14. Penalty.**

Any person who violates subsection 1 of section 43-41-04 is guilty of a class B misdemeanor.