

Stricken language would be deleted from and underlined language would be added to present law.
Act 1170 of the Regular Session

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H3/11/15 H3/16/15
A Bill

HOUSE BILL 1293

By: Representative Leding

For An Act To Be Entitled

AN ACT TO AMEND VARIOUS SECTIONS OF THE LAW REGARDING
LICENSURE OF SOCIAL WORKERS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND VARIOUS SECTIONS OF THE LAW
REGARDING LICENSURE OF SOCIAL WORKERS.

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

SECTION 1. Arkansas Code §§ 17-103-102 – 17-103-105 are amended to read as follows:

17-103-102. Purpose.

~~Since the profession of social work significantly affects the lives of the people of this state, it is the purpose of this chapter to protect the public by setting standards of qualification, training, and experience for those who seek to represent themselves to the public as social workers and by promoting high standards of professional performance for those engaged in the practice of social work~~ (a) The purpose of this chapter is to:

(1) Declare the practice of social work a professional practice affecting the public health, safety, and welfare;

(2) Subject the practice of social work to effective regulation and control to promote, preserve, and protect the public interest; and

(3) Declare a matter of public interest and concern that the practice of social work, as defined in this chapter, merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of social work in the State of Arkansas.

(b) This chapter shall be liberally construed to carry out these



objectives and purposes.

17-103-103. Definitions.

As used in this chapter:

(1) ~~“Board” means the Arkansas Social Work Licensing Board; and~~
“Licensed certified social worker” means an individual who:

(A) Applies social work theory, knowledge, methods, principles, values, and ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, and to address needs of organizations and communities;

(B) Practices with specialized knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment for mental, emotional, and behavioral disorders and conditions;

(C) Conducts management, information and referral, mediation, client education, supervision of employees, consultation, research, advocacy, and outcome evaluation;

(D) May operate a private practice;

(E) May practice macro social work independently; and

(F) May engage in the activities included in the practice of a licensed master social worker;

(2) “Licensed master social worker” means an individual who:

(A) Applies specialized knowledge and advanced practice skills in the areas of assessment, diagnosis, treatment planning, implementation and evaluation, case management, information and referral, mediation, client education, counseling, advocacy, supervision of nonclinical, baccalaureate-level social workers and nonlicensed master’s level employees, nonclinical consultation, research, community organization and development, administration of social work policies, programs and activities, and outcome evaluation;

(B) Practices social work under supervision within a recognized, organized setting such as a social, medical, or governmental agency;

(C)(i) May engage only in supervised practice as set forth in rules established by the Arkansas Social Work Licensing Board;

(ii) A licensed master social worker shall not

practice privately or independently;

(3) "Licensed social worker" means an individual who:

(A) Conducts a basic generalist practice that includes assessment, case management, information and referral for counseling, advocacy, nonclinical counseling, supervision and counseling, client education, research, community organization, and the development, implementation, and administration of policies, programs, and activities;

(B) Is not qualified to diagnose and treat mental illness nor to provide psychotherapy services;

(C) Practices only in organized settings such as social, medical, or governmental agency.

(D)(i) Engages only in supervised practice as set forth in the rules established by the board.

(ii) A licensed social worker shall not practice privately or independently; and

~~(2)~~(4) "Practice of social work" means a professional service which effects change in social conditions, human behavior, and emotional responses of individuals, couples, families, groups, and organizations. "Social work practice" can only be performed with specialized knowledge and skills related to human development, the potential for human growth, the availability of social resources, and the knowledge of social systems. The disciplined application of social work knowledge and skills includes, but is not restricted to, the following:

(A) Counseling with individuals, couples, families, and groups for purposes of assessment and enhancement of the problem-solving and coping capacities of people; and

(B) The application of social work knowledge and skills in social planning, administration, and research.

17-103-104. Exemptions.

(a) This chapter ~~shall not be construed to~~ does not prevent members of the clergy, Christian Science practitioners, and licensed professionals such as physicians, nurses, psychologists, counselors, and attorneys from doing work within the standards and ethics of their respective professions, ~~provided that~~ if they do not hold themselves out to the public by any title or description of services as being social workers as defined under this

chapter.

(b)(1) This chapter ~~shall not be construed to~~ does not limit or prohibit the employment by a licensed hospital in this state of persons who perform services commonly within the definition of social work or of practices performed by social workers, ~~so long as~~ if the services are performed within the course ~~of~~ and scope of their employment as employees of the ~~hospital~~ hospital and only if the person does not represent himself or herself to the public as a social worker.

(2) ~~Nor shall this chapter~~ This chapter does not require ~~any a~~ a regular employee of a licensed hospital in this state to be licensed as a licensed social worker, a licensed master social worker, or a licensed certified social worker as a condition of employment by or performance of services as a social worker while employed in a licensed hospital in this state.

(c) This chapter ~~shall not be construed as limiting~~ does not limit the activities and services of a graduate or undergraduate student ~~for the practice of social work~~ from an accredited educational institution.

(d)(1) This chapter ~~shall not be construed to~~ does not require ~~any a~~ a person to be licensed as a licensed social worker who is engaged in the practice of a specialty ~~as~~ area of social work while an employee of ~~any an~~ an agency or department of the state in any of the following job classifications, but only if the person is engaged in that practice as an employee of ~~such an~~ the agency or department and only if the person does not represent himself or herself to the public as a social worker:

- (A) ~~Family~~ A family service worker;
- (B) ~~Social~~ A social service worker; ~~and or~~
- (C) ~~Adult~~ An adult protective services worker.

(2) It is the intent of the General Assembly to restrict licensure to those individuals who are represented to be social workers. It is not the intent of the General Assembly to license persons such as state employees in the job classifications of social service workers and family service workers.

17-103-105. Violations.

The following acts ~~shall~~ constitute violations of this chapter:

- (1) Representing oneself to be a social worker or engaging in

~~the practice of social work a social worker, licensed social worker, licensed master social worker, or licensed certified social worker unless licensed as a licensed social worker, a licensed master social worker, or a licensed certified social worker such~~ under this chapter ~~or under titles or descriptions offering to give or giving services to individuals, groups, agencies, or corporations without a license;~~

(2) Entering the private independent practice of clinical social work without being certified by the Arkansas Social Work Licensing Board;

(3) Obtaining or attempting to obtain a license or renewal thereof of a license by bribery or fraudulent representation; and

(4) Knowingly making a false statement on any form promulgated by the board in accordance with this chapter or the rules ~~and regulations promulgated hereunder~~ under this chapter.

SECTION 2. Arkansas Code § 17-103-107 is amended to read as follows:
17-103-107. Privileged communications.

~~(a)(1) No~~ A licensed certified social worker, licensed master social worker, or licensed social worker or his or her secretary, stenographer, or clerk ~~may~~ shall not disclose any information ~~he or she may have~~ acquired from ~~persons~~ a person consulting him or her in his or her professional capacity ~~to those persons~~ except with the written consent of:

~~(1) With the written consent of the person or persons or, in the case of death or disability, of his or her own legal guardian, other another person authorized to sue, or the beneficiary of an insurance policy on his or her life, health, or physical condition~~ (A) The person; or

(B) In the case of death or disability of the person:

(i) The person's own legal guardian;

(ii) Another person authorized to sue on behalf of the person; or

(iii) The beneficiary of an insurance policy on the person's life, health, or physical condition.

(2) ~~That a~~ A licensed certified social worker, licensed master social worker, or licensed social worker ~~shall not be~~ is not required to treat as confidential a communication that reveals the ~~contemplation~~ intended commission of a crime or a harmful act.

(3) ~~When~~ If the person is a minor under the laws of this state

and the information acquired by the licensed certified social worker, licensed master social worker, or licensed social worker indicates that the minor was the victim or subject of a crime, the licensed certified social worker, licensed master social worker, or the licensed social worker may be required to testify fully in any examination, trial, or other proceedings in which the commission of such a crime is the subject of inquiry, ~~or~~ .

(4) ~~When~~ The licensed certified social worker, licensed master social worker, or the licensed social worker may disclose a person's acquired information:

(A) If the person waives the privilege by bringing charges against the licensed certified social worker, licensed master social worker, or the licensed social worker;

(B)(i) In the course of formally reporting to, conferring with, or consulting with administrative superiors, colleagues, or consultants who share professional responsibility.

(ii) Under any circumstance specified in subdivision (4)(B) of this section, a recipient of the disclosed information is bound under this section to regard the information as privileged; or

(b) This section does not prohibit a licensed social worker, a licensed master social worker, or a licensed certified social worker from voluntarily testifying in court hearings concerning matters of adoption, child abuse, child neglect, or other matters pertaining to children, the elderly, and physically and mentally impaired adults, except as prohibited under applicable state and federal laws.

SECTION 3. Arkansas Code §§ 17-103-201 – 17-103-205 are amended to read as follows:

17-103-201. Creation – Members.

(a) There is created the Arkansas Social Work Licensing Board.

(b) All members of the ~~board~~ Arkansas Social Work Licensing Board shall be appointed by the Governor with the consent of the Senate for terms of three (3) years and shall be residents of the state and citizens of the United States.

(c) The ~~board~~ Arkansas Social Work Licensing Board shall have nine (9) members, with no fewer than two (2) African-American ~~persons~~ members, and shall be composed of the following:

(1)(A) Three (3) members ~~shall be~~ who are licensed certified social workers, two (2) members ~~shall be~~ who are licensed master social workers, and one (1) member ~~shall be~~ who is a licensed social worker.

(B)(i) ~~These~~ The professional members shall be appointed from the list of social workers licensed by this chapter and shall have five (5) years of full-time social work practice experience prior to appointment to the ~~board~~ Arkansas Social Work Licensing Board.

(ii) ~~This~~ The experience required under subdivision (c)(1)(B)(i) of this section may consist of direct social work practice, teaching, or administration in social work;

(2)(A) One (1) member ~~shall be~~ who is a psychiatrist certified by the American Board of Psychiatry and Neurology.

(B) The member appointed under subdivision (c)(2)(A) of this section shall be in good standing with the American Board of Psychiatry and Neurology;

(3) One (1) member ~~shall be~~ who is a representative of the public at large; and

(4)(A) One (1) member ~~shall be~~ who is sixty (60) years of age or older, not actively engaged in or retired from professional social work, and shall represent the elderly.

(B) ~~This~~ The member appointed under subdivision (c)(4)(A) of this section shall be appointed from the state at large and shall be a full voting member ~~but shall not participate in the grading of examinations.~~

(C) The same ~~person~~ member may not represent both the public at large and the elderly.

(d)(1) ~~Members~~ A member of the ~~board~~ Arkansas Social Work Licensing Board may be removed from office by the Governor for cause.

(2) In case of death, resignation, or removal, the vacancy of the unexpired ~~terms~~ term shall be filled by the Governor in the same manner as other appointments.

(3) ~~No~~ A member shall not serve more than two (2) consecutive terms.

(e)(1) ~~Each~~ A member of the ~~board~~ Arkansas Social Work Licensing Board may receive expense reimbursement in accordance with § 25-16-902.

(2) All reimbursements for expenses authorized by this chapter shall be paid from the Social Work Licensing Fund.

~~(3) No money may ever~~ Money shall not be paid from the General Revenue Fund for the administration of this chapter.

(f) In addition to the expense reimbursement ~~mentioned in~~ under subsection (e) of this section, each member of the ~~board~~ Arkansas Social Work Licensing Board may receive a stipend in accordance with § 25-16-904.

17-103-202. Organization and functions.

(a)~~(1)~~ At least two (2) regular meetings of the Arkansas Social Work Licensing Board shall be held each calendar year.

~~(2)~~ At the first regular meeting ~~every two (2) years~~ each year, the board shall elect a chair, ~~and a vice chair, and a secretary.~~

~~(3)~~ Other regular meetings may be held at such time as the rules of the board may provide.

(b) Special called meetings may be held at the discretion of the chair or at the written request of any three (3) members of the board.

(c) Reasonable notice of all meetings shall be given in the manner prescribed by the laws of this state.

(d) A quorum of the board shall consist of four (4) members.

~~(e)~~ ~~A secretary of the board shall be elected by the board and shall hold office at the pleasure of the board.~~

~~(f)~~~~(e)~~ The board shall employ necessary personnel for the performance of its functions and fix the compensation of the personnel within the limits of funds available to the board.

~~(g)~~~~(f)~~ The board shall adopt a seal, ~~which must~~ that shall be affixed to all certificates issued by the board.

17-103-203. ~~Duties generally~~ Powers and duties.

(a) The Arkansas Social Work Licensing Board has all the powers and duties granted under this chapter.

(b) In addition to the duties set forth elsewhere in this chapter, the Arkansas Social Work Licensing Board board shall:

(1) Establish an examination procedure, utilizing the examinations approved by the board the criteria and process for licensure through reciprocity;

~~(2) Establish a licensure reciprocity agreement with other states;~~

~~(3)(2) Annually compile~~ Make available under the Freedom of Information Act of 1967, § 25-19-101 et seq., a list of the names and addresses of all persons licensed under this chapter to be available upon request and cost the following information:

(A) A list of the names and addresses of all persons licensed under this chapter;

(B) A list of the names and addresses of all persons who hold a certification of registration under this chapter;

(C) A list of names of social workers who have been found in violation of this chapter or any rules promulgated under this chapter; and

(D) The findings of fact, conclusions of law, and order regarding a social worker who has been found in violation of this chapter or any rules promulgated under this chapter;

~~(4)(3)~~ Establish mechanisms for appeal and decisions regarding applications and granting of licenses, with such mechanisms to include provisions for judicial review in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

~~(5)(4)~~ Make rules ~~and regulations not inconsistent~~ consistent with law as may be necessary to regulate its proceedings;

~~(6)(5)~~ Compile an annual report;

~~(7)(6)~~ Establish rules defining unprofessional conduct and set forth and publish a code of ethics and ~~publish~~ standards for practice;

~~(8)(7)~~ Establish fees and publish financial records;

(8) Establish continuing education requirements and notify the applicants for licensing of the requirement; and

(9) At the time of license renewal, require each applicant to present satisfactory evidence that, in the period since the license was issued, he or she has completed the continuing education requirements specified by the board; ~~and~~

~~(10) Establish continuing education requirements and notify the applicants for licensing of the requirements.~~

17-103-204. Disposition of funds.

(a) The ~~Secretary~~ Executive Director of the Arkansas Social Work Licensing Board or his or her designee shall receive and account for all money derived under the provisions of this chapter and shall pay ~~it weekly~~

the money to the Treasurer of State, who shall keep the money in a separate fund to be known as the "Social Work Licensing Fund".

(b) Money may be paid out of the fund only by warrant drawn by the Chief Fiscal Officer of the State on the State Treasury, ~~written on an itemized voucher, and approved and attested by the secretary.~~

(c) There shall be audits of the fund as required by law.

(d) ~~The secretary shall give a surety bond for the faithful performance of his or her duties to the Governor in the sum of ten thousand dollars (\$10,000) or an amount recommended by the Auditor of State. The premium for this bond shall be paid out of the fund~~ The executive director shall be bonded to handle the finances of the board in compliance with state rules.

(e) The board may make expenditures from ~~this~~ the fund for any purpose ~~which~~ that is reasonable and necessary to carry out the provisions of this chapter.

17-103-205. Fees.

The Arkansas Social Work Licensing Board shall establish, charge, and collect for:

(1) The filing of an application for a license under this chapter, a nonrefundable fee of not more than ~~one hundred dollars (\$100)~~ one hundred fifty dollars (\$150);

(2) A nonrefundable renewal of a license issued in accordance with this chapter, a fee of not more than ~~eighty dollars (\$80.00)~~ one hundred fifty dollars (\$150);

(3) Replacement of a license, a nonrefundable fee of not ~~less than twenty dollars (\$20.00)~~ more than forty dollars (\$40.00);

(4) Endorsement of an Arkansas social work license, a nonrefundable fee of ~~twenty dollars (\$20.00)~~ not more than forty dollars (\$40.00);

(5) Renewal of a license after the expiration date, a nonrefundable late fee of not more than ~~eighty dollars (\$80.00)~~ one hundred fifty dollars (\$150);

(6) A criminal background check processing fee, the fee amount to be determined by the Department of Arkansas State Police;

(7) The filing of an application for a certificate of

registration under this chapter, a nonrefundable fee of not more than ~~twenty-five dollars (\$25.00)~~ fifty dollars (\$50.00); and

(8) Renewal of a certificate of registration issued under this chapter, a nonrefundable fee of not more than ~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00).

SECTION 4. Arkansas Code § 17-103-301 and 17-103-302 concerning social work licenses is amended to read as follows:

17-103-301. License required.

(a) ~~No individual~~ A person shall not practice or offer to practice social work ~~within the meaning of~~ under this chapter unless ~~he or she~~ the person is licensed, a student under ~~the provisions of~~ this chapter, or otherwise entitled to practice under subsections (b) and (c) of this section.

(b) ~~No~~ A person may shall not engage in the private independent practice of social work unless that person is licensed under this chapter as a licensed certified social worker.

(c) ~~No~~ A person may shall not engage in social work consultation unless that person is licensed under this chapter as a licensed certified social worker.

17-103-302. Reciprocity.

The Arkansas Social Work Licensing Board may grant a license without examination to ~~any~~ a person meeting all of the other requirements of this chapter and who at the time of application is licensed as a social worker by a similar board of another state, territory, ~~or~~ district, or Canadian province whose standards, in the opinion of the board, are not lower than those required by this chapter.

SECTION 5. Arkansas Code § 17-103-303 concerning temporary licenses for social workers is repealed.

~~17-103-303. Temporary licenses.~~

~~(a) A social worker who comes to reside in Arkansas and does not qualify for licensing under § 17-103-302 but who is otherwise qualified for licensing may be issued a temporary license by the Arkansas Social Work Licensing Board at the appropriate level for the practice of social work for a period of up to six (6) months until the board conducts its regular~~

~~licensing examinations.~~

~~(b)(1) An individual who resides in Arkansas and completes the educational requirements for licensing as a licensed social worker or licensed master social worker under § 17-103-306 may be issued a temporary license by the board at the appropriate level for the practice of social work for a period of up to one (1) year.~~

~~(2) An individual holding a temporary license under subdivision (b)(1) of this section shall sit for the examination for licensure at least two (2) times during the one (1) year of temporary licensure.~~

SECTION 6. Arkansas Code § 17-103-304 – 17-103-308 concerning social work licenses is amended to read as follows:

17-103-304. Expiration and renewal.

(a) ~~All licenses shall be~~ A license is effective ~~when issued at the time of issuance~~ by the Arkansas Social Work Licensing Board.

(b) The ~~licenses~~ license of a licensed social worker, licensed master social worker, and licensed certified social worker ~~shall be~~ is valid for two (2) years after the date of issuance.

(c)(1) A license may be renewed by the payment of a renewal fee as set by the board.

~~(2) The board shall mail an application for renewal of a license to each person to whom a license was issued or renewed during the current year. The application shall be mailed to the most recent address of the person as it appears on the records of the board~~ A notice of license renewal shall be sent to a licensee at the most recent address as it appears in the records of the board approximately two (2) months before the expiration date of the license.

~~(3) The person shall complete the renewal application and return it to the board accompanied by the required renewal fee within not more than two (2) months after the renewal application was mailed by the board~~ Before the expiration date of the license, the licensee shall:

(A) Submit a renewal application and fee online; or

(B) Mail the renewal application and fee to the office of the board.

(4) Upon receipt of ~~any~~ an application and fee, the board shall verify the accuracy of the application and ,if approved, issue to the

applicant a notice of license renewal valid for the next two (2) years.

(d)(1) If a ~~person~~ licensee fails to renew his or her license ~~within the two month period~~ before the expiration date, the license shall lapse the last day of the month of the calendar year that is exactly two (2) years from the calendar year and month in which the license was issued.

~~(2) Renewal of a license which has lapsed for a period in excess of two (2) months but less than six (6) months may be effected upon submission to the board~~ A license that has lapsed for a period of less than three (3) months may be renewed by submission of:

(A) a completed renewal application;

(B) accompanied by a fee which shall be that is two (2) times the amount of the renewal fee specified; and

(C) An attestation that the licensee has not practiced social work since the day that his or her license lapsed and the licensee will not practice social work until his or her license is approved for renewal by the board.

(3) If a license ~~is allowed to lapse~~ has lapsed for ~~six (6)~~ three (3) months or longer, the applicant for the license shall be considered a new applicant subject to appropriate provisions of this chapter.

(4) A license that has expired over three (3) months is not renewable.

(e) At the time of license renewal, ~~each~~ an applicant shall present satisfactory evidence that in the period since the license was issued, he or she has completed the continuing education requirements as required by the board.

17-103-305. Renewal, revocation, suspension – Disciplinary proceedings.

(a) The Arkansas Social Work Licensing Board may refuse to issue or renew a license or may revoke or suspend a license issued under this chapter or may impose other appropriate restrictions or additional impositions, including without limitation supervision, probation, counseling, reporting, drug screening, and additional continuing education for any of the following causes or reasons:

(1) Violation of a provision of this chapter;

(2) Gross negligence in the practice of social work; ~~or~~

(3) Engaging in a course of unprofessional conduct as defined by the rules established by the board or violation of the code of ethics made and published by the board; or

(4) Failing to meet one (1) of the qualifications for issuance of a license under § 17-103-307.

(b) The board shall refuse to issue or shall revoke the license of ~~any~~ a person who is found guilty of or pleads guilty or nolo contendere to any offense listed in § 17-103-307(f) has been found guilty of a felony, any crime involving moral turpitude, or criminal offense involving violence, dishonesty, fraud, deceit, breach of client trust, or abuse of the vulnerable unless the person requests and the board grants a waiver pursuant to under § 17-103-307(h)(f).

~~(c)(1) Hearings shall be conducted by the board~~ The board shall conduct hearings.

~~(2) Decisions will~~ shall be determined by a majority vote of the board. All proceedings ~~will~~ shall be conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

17-103-306. Qualifications – Issuance.

~~(a)(1) The Arkansas Social Work Licensing Board shall issue a license as a licensed social worker~~ Licensed Social Worker License to an applicant who qualifies as follows:

~~(1)(A)~~ (A) Has a baccalaureate degree in a social work from a program accredited by the Council on Social Work Education or the Canadian Association for Social Work Education, or has received before June 17, 1986, a baccalaureate degree in a social work program from an accredited educational institution;

~~(2)(B)~~ (B) Has passed an examination approved by the board for this purpose and level of practice; ~~and~~

~~(3)(C)~~ (C) *Has applied for a criminal background check and has not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in* meets the qualifications for issuance of a license under § 17-103-307(f);

(D) Has good moral character;

(E) Is physically and mentally competent to provide social work services with reasonable skill and safety;

(F) Is not affected by a mental or physical disease or condition that would impair the applicant's competency to provide social work services;

(G) Has not pleaded guilty or nolo contendere to or been found guilty of a felony, any crime involving moral turpitude, or criminal offense involving violence, dishonesty, fraud, deceit, breach of client trust, or abuse of the vulnerable;

(H) Does not use drugs or alcohol to an extent that the use affects the applicant's professional competency; and

(I) Has not engaged in fraud or deceit in making the application.

(2)(A) The board shall issue a Provisional Licensed Social Worker license one (1) time only to an applicant who qualifies under this subsection.

(B) A Provisional Licensed Social Worker license is good for one (1) year and up to three (3) attempts to pass the examination approved by the board for this purpose and level of practice.

(b)(1) The board shall issue a ~~license as a licensed master social worker~~ Licensed Master Social Worker license to an applicant who qualifies as follows:

~~(1)(A)~~ Has a master's degree in social work from an ~~an~~ accredited social work a program ~~in an~~ accredited institution approved by the Council on Social Work Education or the Canadian Association for Social Work Education, or has received before June 17, 1986, a master's degree in a social work program from an accredited educational institution;

~~(2)(B)~~ Has passed an examination approved by the board for this purpose and level of practice; ~~and~~

~~(3)(C)~~ Has applied for a criminal background check and ~~has not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in~~ meets the qualifications for issuance of a license under § 17-103-307~~(f)~~;

(D) Has good moral character;

(E) Is physically and mentally competent to provide social work services with reasonable skill and safety;

(F) Is not afflicted by a mental or physical disease or condition that would impair the applicant's competency to provide social work

services;

(G) Has not pleaded guilty or nolo contendere to or been found guilty of a felony, any crime involving moral turpitude, or criminal offense involving violence, dishonesty, fraud, deceit, breach of client trust, or abuse of the vulnerable;

(H) Does not use drugs or alcohol to an extent that the use affects the applicant's professional competency; and

(I) Has not engaged in fraud or deceit in making the application.

(2)(A) The board shall issue a Provisional Licensed Master Social Worker license one (1) time only to an applicant who qualifies under this subsection.

(B) A Provisional Licensed Master Social Worker license is good for one (1) year and up to three (3) attempts to pass the examination approved by the board for this purpose and level of practice.

(c)(1) The board shall issue a license as a ~~licensed certified social worker~~ Licensed Certified Social Worker license to an applicant who qualifies as follows:

~~(1)(A)~~ Has a master's degree in social work from ~~an accredited social work~~ a program in an accredited institution approved by the Council on Social Work Education or the Canadian Association for Social Work Education, or has received before June 17, 1986, a master's degree in a social work program from an accredited educational institution;

~~(2)(B)(i)~~ Has ~~two (2) years of supervised social work experience in a clinical or nonclinical concentration by a licensed certified social worker licensed under this law beyond the master's degree~~ Has at least twenty-four (24) months of supervised social work experience under a Licensed Certified Social Worker.

(ii) The supervised social work experience required under subdivision (c)(1)(B)(i) of this section shall include at least four thousand (4,000) hours in a social work position under the supervision of a Licensed Certified Social Worker or a social worker whom the board determines to have qualifications equivalent to those required of a Licensed Certified Social Worker;

~~(3)(C)~~ Has passed an examination approved by the board for this purpose and level of practice; ~~and~~

~~(4)(D)~~ *Has applied for a criminal background check and ~~has not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in~~ meets the qualifications for issuance of a license under § 17-103-307~~(f)~~;*

(E) Has good moral character;

(F) Is physically and mentally competent to provide social work services with reasonable skill and safety;

(G) Is not affected by a mental or physical disease or condition that would impair the applicant's competency to provide social work services;

(H) Has not pleaded guilty or nolo contendere to or been found guilty of a felony, any crime involving moral turpitude, or criminal offense involving violence, dishonesty, fraud, deceit, breach of client trust, or abuse of the vulnerable;

(I) Does not use drugs or alcohol to an extent that the use affects the applicant's professional competency; and

(J) Has not engaged in fraud or deceit in making the application.

(2)(A) The board shall issue a Provisional Licensed Master Social Worker license one (1) time only to an applicant who qualifies under this subsection.

(B) A Provisional Licensed Master Social Worker license is good for one (1) year and up to three (3) attempts to pass the examination approved by the board for this purpose and level of practice.

(C) A Provisional Licensed Certified Social license is not available.

17-103-307. Criminal background checks.

(a) Each ~~first-time~~ applicant for a license issued by the Arkansas Social Work Licensing Board ~~shall be~~ is required to apply ~~to the Identification Bureau of the Department of Arkansas State Police~~ for a state and national criminal background check, to be conducted by the Department of Arkansas State Police and the Federal Bureau of Investigation.

(b) The criminal background check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(c) The applicant shall sign a release of information to the board and

shall be responsible to the Department of Arkansas State Police for the payment of any fee associated with the criminal background check.

(d) Upon completion of the criminal background check, the Identification Bureau of the Department of Arkansas State Police shall forward to the board all information obtained concerning the applicant in the commission of any offense listed in subsection ~~(f)~~ (e) of this section.

~~(e) At the conclusion of any background check required by this section, the Identification Bureau of the Department of Arkansas State Police shall promptly destroy the fingerprint card of the applicant.~~

~~(f)~~(e) Except as provided in subdivision ~~(m)~~(l) (k)(1) of this section, ~~no~~ a person shall be is not eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to ~~or been found guilty of any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court:~~ a felony, any crime involving moral turpitude, or criminal offense involving violence, dishonesty, fraud, deceit, breach of client trust, or abuse of the vulnerable, including without limitation:

- (1) Capital murder as prohibited in § 5-10-101;
- (2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
- (3) Manslaughter as prohibited in § 5-10-104;
- (4) Negligent homicide as prohibited in § 5-10-105;
- (5) Kidnapping as prohibited in § 5-11-102;
- (6) False imprisonment in the first degree as prohibited in § 5-11-103;
- (7) Permanent detention or restraint as prohibited in § 5-11-106;
- (8) Robbery as prohibited in § 5-12-102;
- (9) Aggravated robbery as prohibited in § 5-12-103;
- (10) Battery in the first degree as prohibited in § 5-13-201;
- (11) Aggravated assault as prohibited in § 5-13-204;
- (12) Introduction of a controlled substance into the body of another person as prohibited in § 5-13-210;
- (13) Terroristic threatening in the first degree as prohibited in § 5-13-301;

- (14) Rape as prohibited in § 5-14-103;
- (15) Sexual indecency with a child as prohibited in § 5-14-110;
- (16) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 – 5-14-127;
- (17) Incest as prohibited in § 5-26-202;
- (18) Offenses against the family as prohibited in §§ 5-26-303 – 5-26-306;
- (19) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5-27-201;
- (20) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205;
- (21) Permitting abuse of a minor as prohibited in § 5-27-221(a);
- (22) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303 – 5-27-305, 5-27-402, and 5-27-403;
- (23) Felony adult abuse as prohibited in § 5-28-103;
- (24) Theft of property as prohibited in § 5-36-103;
- (25) Theft by receiving as prohibited in § 5-36-106;
- (26) Arson as prohibited in § 5-38-301;
- (27) Burglary as prohibited in § 5-39-201;
- (28) Felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 – 5-64-510, as prohibited in the former § 5-64-401 and §§ 5-64-419 – 5-64-442;
- (29) Promotion of prostitution in the first degree as prohibited in § 5-70-104;
- (30) Stalking as prohibited in § 5-71-229;
- (31) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;
- (32) Computer child pornography as prohibited in § 5-27-603; and
- (33) Computer exploitation of a child in the first degree as prohibited in § 5-27-605.

~~(g)(1) The board may issue a six month nonrenewable letter of provisional eligibility for licensure to a first time applicant pending the results of the criminal background check.~~

~~(2) Except as provided in subdivision (m)(1) of this section, upon receipt of information from the Identification Bureau of the Department of Arkansas State Police that the person holding such a letter of provisional licensure has pleaded guilty or nolo contendere to or been found guilty of any offense listed in subsection (f) of this section, the board shall immediately revoke the provisional license.~~

~~(h)(f)(1)~~ The provisions of subsection ~~(f)~~ and subdivision ~~(g)(2)~~ (e) of this section may be waived by the board upon the request of:

- (A) An affected applicant for licensure; or
- (B) The person holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted ~~shall~~ include, but ~~not be~~ are not limited to, the following:

- (A) The applicant's age at ~~which~~ the time the crime was committed;
- (B) The circumstances surrounding the crime;
- (C) The length of time since the crime;
- (D) Subsequent work history;
- (E) Employment references;
- (F) Character references; and
- (G) Other evidence demonstrating that the applicant does not pose a threat to the health or safety of children or endangered adults.

~~(i)(g)(1) Any information~~ Information received by the board from the Identification Bureau of the Department of Arkansas State Police ~~pursuant to~~ under this section shall not be available for examination except by the affected applicant for licensure or his or her authorized representative or the person whose license is subject to revocation or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the department.

~~(j)(h) Any information~~ Information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that person only.

~~(k)(i)~~ Rights of privilege and confidentiality established in this section ~~shall~~ do not extend to any document created for purposes other than ~~this~~ the criminal background check.

~~(l)(j)~~ The board shall adopt the necessary rules ~~and regulations~~ to fully implement the provisions of this section.

~~(m)(k)(1)~~ ~~For purposes of~~ As used in this section, an expunged record of a conviction or plea of guilty or nolo contendere to *an offense listed in subsection (f) of this section shall not be a felony, any crime involving moral turpitude, or criminal offense involving violence, dishonesty, fraud, deceit, breach of client trust, or abuse of the vulnerable contendere plea to the offense* unless the offense is also listed in subdivision ~~(m)(2)~~ (k)(2) of this section.

(2) Because of the serious nature of the offenses and the close relationship to the type of work that is to be performed, ~~the following a conviction, guilty plea, or nolo contendere plea to any of the following offenses~~ shall result in permanent disqualification for licensure:

- (A) Capital murder as prohibited in § 5-10-101;
- (B) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
- (C) Kidnapping as prohibited in § 5-11-102;
- (D) Rape as prohibited in § 5-14-103;
- (E) Sexual assault in the first degree as prohibited in § 5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;
- (F) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205 and endangering the welfare of a minor in the second degree as prohibited in § 5-27-206;
- (G) ~~Incest as prohibited in § 5-26-202~~ Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing a visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-247-303 – 5-27-305, 5-27-402, and 5-27-403;
- (H) Arson as prohibited in § 5-38-301;
- (I) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5-27-201; and

(J) Adult abuse that constitutes a felony as prohibited in § 5-28-103.

17-103-308. Licensure certificate.

(a) ~~A licensee under this chapter~~ Under this chapter, a licensee involved in independent private practice with the public shall:

- (1) Display his or her license; and
- (2) Immediately notify clients if his or her license expires

without renewal or is suspended or revoked.

(b) ~~A licensee under this chapter~~ Under this chapter, a licensee whose license expires without renewal or is suspended or revoked shall immediately:

(1) Notify his or her employer, employees, and partners that he or she is no longer licensed; and

(2) Remove from public display his or her license certificate and license card.

SECTION 7. Arkansas Code Title 17, Chapter 103, Subchapter 3, is amended to add an additional section to read as follows:

17-103-309. Practice by electronic, telephonic, or other means.

The provision of social work services to a client within this state through any means, including without limitation electronic means or by telephone, regardless of the location of the social worker, constitutes the practice of social work and is subject to this chapter and to rules adopted under this chapter.

/s/Leding

APPROVED: 04/07/2015