

CHAPTER 467E
SOCIAL WORKERS

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Cross References

Clinical social workers licensed under §467E-7(3), appointment as child custody evaluators, see §571-46.4.

" **§467E-1 Definitions.** As used in this chapter:

"Continuing education courses" means courses approved by the National Association of Social Workers, the National Association of Social Workers Chapters, or the Association of Social Work Boards.

"Credit hour" means, except as otherwise provided, the value assigned to fifty minutes of instruction.

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Ethic courses" include ethic theory, ethical reasoning, ethical principles, ethical dilemmas, and professional ethics.

"Exempt government employee" means an employee in a social worker position with any federal, state, or county government agency.

"Practice of social work" means applying the formal knowledge base, theoretical concepts, specific functional skills, and essential social values that are used to effect change in human behavior, emotional responses, and social conditions, and helping individuals, couples, families, groups, and community organizations enhance or restore their capacities for personal and social functioning while preventing and controlling social problems. Social work practice is the professional application of social work values, principles, ethics, and techniques in the following areas:

- (1) Information, resource identification, referral services, mediation services, advocacy services, and education of individuals, groups, couples, and families;
- (2) Preparation and evaluation of assessments and development and implementation of social work service plans;
- (3) Case management, coordination, casework intervention, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems;
- (4) Administration and development of social service programs, policies, community organization, planning, implementation, and involvement in the evaluation of social systems and social policies;
- (5) Social work consultation and resource development;

- (6) Research through the formal design and methodology of data collection and the analysis and evaluation of data, social work programs, social systems, and social policies;
- (7) Psychosocial assessment, diagnostic impressions, treatment of individuals, couples, families, and groups, prevention of psychosocial dysfunction, disability, or impairment, including emotional, mental, and behavioral disorders, and evaluation of practice effectiveness; and
- (8) Clinical diagnosis or psychotherapy, or both, provided by a licensed clinical social worker.

"Social worker" or "S.W." means a person who has been issued a license as a licensed bachelor social worker, licensed social worker, or licensed clinical social worker to practice within the scope of practice as provided in this chapter. [L 1994, c 251, pt of §2; am L 2001, c 229, §§2, 5; am L 2002, c 16, §29 and c 167, §§6, 17; am L 2013, c 183, §2]

" **[§467E-1.5] Limitations of scope of practice.** In accordance with the definition of the practice of social work, there shall be limitations on the scope of the practice of social work as follows:

- (1) The "licensed bachelor social worker" or "L.B.S.W." may perform duties as defined in paragraphs (1) to (4) of the definition of the practice of social work in section 467E-1 in an agency setting under supervision;
- (2) The "licensed social worker" or "L.S.W." may perform duties as defined in paragraphs (1) to (7) of the definition of the practice of social work in section 467E-1; and
- (3) The "licensed clinical social worker" or "L.C.S.W." may perform duties as defined in paragraphs (1) to (8) of the definition of the practice of social work in section 467E-1. [L 2002, c 167, §2]

" **§467E-2 Social worker licensing program.** There is established a social worker licensing program within the department to be administered by the director that shall recognize the "licensed bachelor social worker" or "L.B.S.W.", the "licensed social worker" or "L.S.W.", and the "licensed clinical social worker" or "L.C.S.W.". [L 1994, c 251, pt of §2; am L 2002, c 167, §7]

" **§467E-3 Powers and duties of the director.** In addition to any other powers and duties authorized by law, the director shall have the following powers and duties:

- (1) Grant permission to a person to use the title of social worker and engage in the practice of social work in this State pursuant to this chapter and the rules adopted pursuant thereto;
- (2) Adopt, amend, or repeal rules pursuant to chapter 91 as the director finds necessary to carry out this chapter;
- (3) Administer, coordinate, and enforce this chapter and rules adopted pursuant thereto;
- (4) Discipline a licensee for any cause described by this chapter or for any violation of the rules, fine any government employee employed as a social worker for any cause described by this chapter, and refuse to license a person for failure to meet licensing requirements or for any cause that would be grounds for disciplining a licensee; and
- (5) Appoint an advisory committee consisting of three social workers and two members of the public to assist with the implementation of this chapter and the rules adopted pursuant thereto. [L 1994, c 251, pt of §2; am L 2002, c 167, §8]

" **§467E-4 Fees; disposition.** (a) Application, examination, reexamination, license, renewal, late renewal penalty fees, and other reasonable and necessary fees relating to administration of this chapter, none of which are refundable, shall be as provided in rules adopted by the director pursuant to chapter 91.

(b) Fees assessed shall defray all costs to be incurred by the director to support the operation of the social worker licensing program. Fees collected shall be managed in accordance [with] section 26-9(1). [L 1994, c 251, pt of §2]

" **§467E-5 License required.** No person shall purport to be a "social worker", "licensed bachelor social worker", "licensed social worker", "licensed clinical social worker", or use the letters "S.W.", "L.B.S.W.", "L.S.W.", or "L.C.S.W." in connection with the person's name, or use any words or symbols indicating or tending to indicate that the person is a social worker, licensed bachelor social worker, licensed social worker, or licensed clinical social worker, or engage in the practice of social work as defined in this chapter without meeting the applicable requirements and holding a license as set forth in this chapter. [L 1994, c 251, pt of §2; am L 2002, c 167, §9]

" **§467E-6 Exemptions.** Licensure shall not be required of:

- (1) Any licensed person doing work within the scope of practice or duties of the person's profession that overlaps with the practice of social work; provided the person does not purport to be a social worker;
- (2) Any person employed by a federal, state, or county government agency in a social worker position, but only at those times when that person is carrying out the duties and responsibilities as a social worker in governmental employment;
- (3) Any student enrolled in an accredited educational institution in a recognized program of study leading toward attainment of a degree in social work; provided that the student's activities and services are part of a prescribed course of study supervised by the educational institution, and the student is identified by an appropriate title such as "social work student", "social work intern", or any other title which clearly indicates the student's training status;
- (4) Any person who is a member of a mental health profession not requiring licensure; provided that the person functions only within the person's professional capacities; and provided further that the person does not purport to be a social worker;
- (5) Any person teaching, lecturing, consulting, or engaging in research in social work insofar as the activities are performed as part of or are dependent upon employment in a college or university; provided that the person shall not engage in the practice of social work outside the responsibilities of the person's employment;
- (6) Any person who is a duly recognized member of the clergy; provided that the person functions only within the person's capacities as a member of the clergy; and provided further that the person does not purport to be a social worker;
- (7) Any person who is obtaining supervised clinical experience for licensure as a psychologist, marriage and family therapist, or as another licensed professional; provided that the person's title indicates a trainee status; and provided further that the person does not purport to be a social worker; and
- (8) Any person in the process of obtaining three thousand hours of post masters clinical social work experience under the supervision of a licensed clinical social worker or individual identified in section 467E-7(3)(C)(ii) in order to qualify for a license as a licensed clinical social worker; and provided that the

person calls oneself a clinical social work intern and is supervised while performing clinical diagnosis and psychotherapy. [L 1994, c 251, pt of §2; am L 2002, c 167, §10]

" **§467E-7 Licensing requirements.** Every applicant for a license as a social worker shall submit evidence satisfactory to the director that the applicant meets the following requirements:

- (1) For the licensed bachelor social worker, the applicant:
 - (A) Holds a bachelor's degree from a college or university in a social work program accredited by or deemed to be equivalent to a program accredited by the Council on Social Work Education; and
 - (B) Has passed the basic level national examination given by the Association of Social Work Boards;
- (2) For the licensed social worker, the applicant:
 - (A) Holds a master's degree from a college or university in a social work program accredited by or deemed to be equivalent to an accredited program by the Council on Social Work Education or a doctoral degree from a doctoral degree program in social work accredited by the Western Association of Schools and Colleges or a comparable regional accreditation body; and
 - (B) Has passed the intermediate or higher level national examination given by the Association of Social Work Boards; and
- (3) For the licensed clinical social worker, the applicant:
 - (A) Has met the educational requirements in paragraph (2);
 - (B) Has passed the clinical level national examination given by the Association of Social Work Boards;
 - (C) Has provided evidence of successful completion of at least three thousand hours of post masters clinical social work experience under supervision completed within no fewer than two years, but within no more than five years. Clinical social work experience shall include a minimum of two thousand hours of assessment, clinical diagnosis, and psychotherapy; no more than a maximum of nine hundred hours of client-centered advocacy,

consultation, and evaluation; and at least one hundred hours of supervision as follows:

- (i) At least sixty of the one hundred hours of direct face-to-face supervision shall have been individualized supervision; and
- (ii) Not more than forty hours of direct face-to-face supervision may have been under small group (up to six supervisees) supervision.

An applicant who submits evidence of certification as a qualified clinical social worker or diplomate in clinical social work by the National Association of Social Workers or as a board certified diplomate by the American Board of Examiners shall be deemed to have satisfied the experience requirements of this subparagraph;

- (D) For the purposes of subparagraph (C), shall have had clinical supervision as follows:
 - (i) The supervisor shall have been a licensed clinical social worker with at least four thousand five hundred hours of post masters clinical social work experience;
 - (ii) For the first five years after July 1, 2004, the following individuals shall be deemed to have satisfied the requirements of a supervisor: a person with a master's degree in social work with at least four thousand five hundred hours post masters clinical social work experience; an individual who holds a diplomate in clinical social work or a board certified diplomate certification; or a board certified psychiatrist, psychologist, advanced practice registered nurse who has a minimum of four thousand five hundred hours of post masters clinical experience in assessment, clinical diagnosis, and psychotherapy; and
 - (iii) Supervision shall have included review of assessment, clinical diagnosis, and psychotherapy; and
- (E) In collaboration with the supervisor, may elect to fulfill some or all of the supervision requirements set forth in subparagraph (C) through face-to-face supervision that is conducted electronically through a video conference service that is compliant with all federal and state privacy, security, and confidentiality laws, including the Health

Insurance Portability and Accountability Act of 1996. Prior to making such an election, it is incumbent upon the applicant to review the laws and rules of other jurisdictions to determine the impact, if any, that electronic supervision may have on license by endorsement in other states. [L 1994, c 251, pt of §2; am L 1996, c 202, §13; am L 2001, c 55, §22; am L 2002, c 167, §11; am L 2016, c 212, §2]

Revision Note

"July 1, 2004" substituted for "the effective date of this Act".

Cross References

Clinical social workers licensed under paragraph (3), appointment as child custody evaluators, see §571-46.4.

" **§467E-7.5 Reciprocity and endorsement.** (a) The director may enter into reciprocity agreements with other states and issue a license to a social worker who has been licensed in that state; provided that the requirements for a license in the state in which the applicant is licensed are deemed by the director to be equal to or greater than the current requirements for a license in this State.

(b) The director may also issue a license by endorsement by honoring a passing score on the examination of the Association of Social Work Boards; provided that at a minimum, the applicant meets the other requirements under sections 467E-7 and 467E-9, and the passing score is from the examination category that is required for licensure in this State and the other state uses for its license. [L 2000, c 225, §1; am L 2002, c 167, §12]

" **[§467E-8] Application for examination.** (a) Any person eligible for licensure who wishes to be licensed shall apply for examination to the director at least ninety days prior to the date of the examination, upon a form and in the manner that the director shall prescribe.

(b) Any application to the director shall be accompanied by a nonrefundable application fee.

(c) A person who fails an examination may apply for reexamination. [L 1994, c 251, pt of §2]

" **§467E-9 Examination for license.** (a) Each applicant for licensure shall take and pass a national examination administered by the Association of Social Work Boards in accordance with procedures and standards prescribed by the director.

(b) Applicants for the "licensed clinical social worker" or "L.C.S.W." license who have passed the diplomate clinical assessment examination administered by the National Association of Social Workers before July 1, 2004 shall be deemed to have satisfied the requirement of this section only if the application for licensure is filed with the department by June 30, 2005.

(c) The examination fee shall be paid by the applicant directly to the Association of Social Work Boards. [L 1994, c 251, pt of §2; am L 2000, c 225, §3; am L 2002, c 167, §13]

Revision Note

"July 1, 2004" substituted for "the effective date of this Act".

" **[\$467E-10] Issuance of license.** The director shall issue a license to any person who meets all licensure requirements and pays the appropriate fees. [L 1994, c 251, pt of §2]

" **§467E-11 Renewals.** (a) Every license issued under this chapter shall be renewed triennially on or before June 30, with the first renewal deadline occurring on June 30, 1998. Failure to renew a license shall result in a forfeiture of the license. Licenses which have been so forfeited may be restored within one year of the expiration date upon payment of renewal and penalty fees, and in the case of audited licensees, documentary proof of compliance of continuing education. Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license and relicensure may be subject to the person applying as a new applicant and satisfying again all licensing requirements.

(b) Beginning with the renewal for the licensing triennium commencing on July 1, 2013, through June 30, 2016, each licensee shall:

- (1) Pay all required fees; and
- (2) Complete a minimum of fifteen credit hours of continuing education courses within the renewal period; provided that a minimum of three credit hours shall be in ethic courses.

(c) Beginning with the renewal for the licensing triennium commencing on July 1, 2016, through June 30, 2019, and prior to every triennial renewal thereafter, each licensee shall:

- (1) Pay all required fees; and
- (2) Complete a minimum of forty-five credit hours of continuing education courses within the three-year period preceding the renewal date; provided that a minimum of three credit hours shall be in ethic courses.

(d) A first-time licensee shall not be subject to the continuing education requirement for the first license renewal.

(e) Each licensee shall maintain the licensee's continuing education records. At the time of renewal, each licensee shall certify under oath that the licensee has complied with the continuing education requirement of this section. The director may require a licensee to submit evidence satisfactory to the director that demonstrates compliance with the continuing education requirement of this section.

(f) The director may conduct random audits of licensees to determine compliance with the continuing education requirement. The director shall provide written notice of an audit to a licensee randomly selected for audit. Within sixty days of notification, the licensee shall provide the director with documentation verifying compliance with the continuing education requirement established by this section. [L 1994, c 251, pt of §2; am L 2013, c 183, §3]

" **§467E-12 Revocation, suspension, denial, or condition of licenses; fines.**

(a) In addition to any other acts or conditions provided by law, the director may refuse to renew, reinstate, or restore, or may deny, revoke, suspend, or condition in any manner any license, or fine any exempt government employee for any one or more of the following acts or conditions on the part of the applicant, licensee, or exempt person:

- (1) Failing to meet or maintain the conditions and requirements necessary to qualify for the granting of a license;
- (2) Being addicted to, dependent on, or being a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, opium, or cocaine, or other drugs or derivatives of a similar nature;
- (3) Engaging in the practice of social work while impaired by alcohol, drugs, or mental instability;
- (4) Procuring a social work license through fraud, misrepresentation, or deceit;

- (5) Aiding and abetting an unlicensed person to directly or indirectly use the title "social worker" or engage in practice as a "licensed bachelor social worker", "licensed social worker", or "licensed clinical social worker";
- (6) Engaging in professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of social work;
- (7) Engaging in conduct or practice contrary to recognized standards of ethics for the social work profession;
- (8) Failing to comply, observe, or adhere to any law in a manner such that the director deems the applicant or holder to be an unfit or improper person to hold a social work license;
- (9) Revocation, suspension, or other disciplinary action by another state or federal agency against a licensee or applicant for any reason provided by this section;
- (10) Having a criminal conviction, whether by nolo contendere or otherwise, of a crime directly related to the qualifications, functions, or duties of the social work profession;
- (11) Failing to report in writing to the director any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days of the disciplinary decision;
- (12) Employing, utilizing, or attempting to employ or utilize at any time any person not licensed under this chapter who purports to be or engages in practice as a social worker, licensed bachelor social worker, licensed social worker, or licensed clinical social worker;
- (13) Engaging in the practice of social work beyond the scope of the person's license;
- (14) Making a false statement on any document submitted or required to be filed by this chapter, including a false certification of compliance with the continuing education requirement; or
- (15) Violating this chapter or any rules adopted pursuant thereto.

(b) Any licensee who violates this section may also be fined not more than \$1,000 per violation.

(c) After a hearing pursuant to chapter 91, any exempt government employee who violates this section may be fined not more than \$1,000 per violation.

(d) The department shall have the authority to investigate, prosecute, and conduct administrative hearings

regarding exempt government employees. [L 1994, c 251, pt of §2; am L 2002, c 167, §14; am L 2013, c 183, §4]

" **§467E-13 Prohibited acts; penalties.** (a) No person shall:

- (1) Use in connection with the person's name any designation tending to imply that the person is a social worker, licensed bachelor social worker, licensed social worker, or licensed clinical social worker unless the person is duly licensed and authorized under this chapter;
- (2) Represent oneself as a social worker, licensed bachelor social worker, licensed social worker, or licensed clinical social worker during the time the person's license issued under this chapter is forfeited, terminated, suspended, or revoked;
- (3) Perform clinical diagnosis or psychotherapy unless the person is a licensed clinical social worker; or
- (4) Engage in autonomous and independent clinical social work practice without being licensed as a licensed clinical social worker.

(b) Any person who violates this section shall be subject to a fine of not more than \$1,000 and each day's violation shall be deemed a separate offense. [L 1994, c 251, pt of §2; am L 2001, c 229, §§3, 5; am L 2002, c 16, §29 and c 167, §§15, 17]

" **[\$467E-14] Consumer right of action.** Any person who suffers damage as a result of a violation of this chapter shall be entitled to injunctive relief restraining further violations and may sue to recover damages in any circuit court of the State, and, if successful, shall recover three times the actual damages or \$1,000, whichever is greater. In any action brought under this chapter, the prevailing party shall be entitled to the recovery of costs of suits, including reasonable attorney's fees. [L 1994, c 251, pt of §2]

" **§467E-15 Privileged communication.** Communications between licensed clinical social workers and their clients shall be treated in the same manner as provided for psychologist-client privilege under rule 504.1 of the Hawaii Rules of Evidence. [L 2001, c 229, §§1, 5; am L 2002, c 167, §§16, 17]