

## **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. "College or university" means an institution of higher education whose social work program has been accredited by an accrediting body approved by the board.
3. "Licensed certified social worker" means an individual who has a doctorate or master's degree in social work from a college or university and who has fulfilled the requirements for licensure.
4. "Licensed independent clinical social worker" means an individual who has a doctorate or master's degree in social work from a college or university and who has fulfilled the requirements for licensure or has been registered by the board for third-party reimbursement before August 1, 1997.
5. "Licensed social worker" means an individual who has a baccalaureate degree in social work from a college or university and who has fulfilled the requirements for licensure.
6. "Private practice of social work" means the independent practice of social work by a qualified individual 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.
7. "Social work practice" consists of the professional application of social work values, principles, and techniques in helping people obtain tangible services; counseling; psychotherapy with individuals, families, and groups; helping communities or groups to improve social and health services; providing social casework; directly supervising programs providing social work services; social work education; social work research; or any combination of these. The practice of social work requires knowledge of human development and behavior, of social, economic, and cultural institutions, and the interaction of all these factors.

### **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. Nothing in this chapter may be construed to prevent students who are enrolled in programs of study leading to social work degrees from interning with a licensed social worker, a licensed certified social worker, or a licensed independent 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 social worker, licensed certified social worker, or licensed independent 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.**

1. Except as otherwise provided in this chapter, no person may engage in social work practice in this state unless that person is a licensed social worker, a licensed certified social worker, or a licensed independent clinical social worker.
2. The board shall issue a license as a licensed social worker to an applicant who:
  - a. Has a baccalaureate degree in social work from a college or university.
  - b. Has passed an examination approved by the board for this purpose.
  - c. Has satisfied the board that the applicant agrees to adhere to the code of social work ethics adopted by the board.
3. The board shall issue a license as a licensed certified social worker to an applicant who:
  - a. Has a doctorate or master's degree in social work from a college or university.
  - b. Has passed an examination approved by the board for this purpose.
  - c. Has satisfied the board that the applicant agrees to adhere to the code of social work ethics adopted by the board.
4. To obtain a license to practice clinical social work, an applicant for licensure by examination shall submit to the board a written application in the form prescribed by the board and provide satisfactory evidence the applicant:
  - a. Has a doctorate or master's degree in social work from an approved social work program.
  - b. Passed an examination approved by the board for this purpose.
  - c. Within a four-year period successfully completed 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 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 master's 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.
  - d. Agrees to adhere to the code of social work ethics adopted by the board.
  - e. Is of good moral character. In determining the character of an applicant in a licensure decision, the board shall consider information obtained through reports made under section 43-41-04.2.
  - f. Paid all applicable fees specified by the board regarding the licensure process.

#### **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 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 independent clinical social worker.

**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 six members, two of whom must be, at the time of initial appointment, licensed social workers; one of whom must be, at the time of initial appointment, a licensed certified social worker; one of whom must be, at the time of initial appointment, a licensed independent 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 two members appointed annually. No member may 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 board member shall serve without compensation but shall receive expenses as provided in section 54-06-09 and per diem as must be fixed by the board.
5. Board members shall annually 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. Approve examinations for licensing social workers.
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.**

The board may deny, refuse to renew, suspend, revoke, or place on probationary status any license issued under this chapter on proof at a hearing that the applicant or licensed person:

1. 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.
2. Is addicted to the habitual use of alcoholic beverages, narcotics, or stimulants to such an extent as to incapacitate that individual from the practice of social work.
3. Has been grossly negligent in the practice of social work.
4. Has violated one or more of the rules and regulations of the board.
5. Has violated the code of social work ethics adopted by the board.
6. 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 and to submit to a physical or mental examination, or both, by a physician or physicians and other qualified evaluation professionals selected by the board if it appears to be in the best interests of the public that an evaluation be secured. 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.
7. 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.

#### **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.

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

1. All licenses are effective when granted by the board.
2. All licenses of licensed social workers, licensed certified social workers, and licensed independent 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 shall require each applicant to present satisfactory evidence that the applicant has 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.