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HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 311

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

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

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

3 Chapter 39. Board of ~~Clinical~~ Social Work Examiners.

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

6 § 3901. Objectives of the Board.

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

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

22 § 3902. Definitions.

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

25 (1) “Advanced practice” means the specialized professional application of social work theory, knowledge,
26 methods, principles, values, and ethics, and the professional use of self to community and organizational systems,
27 meaning systemic and macrocosm issues, and other indirect, nonclinical services. “Advanced practice” includes
28 activities such as community organization and development; social planning and policy development; administration of
29 social work policies, programs, and activities; outcome evaluation; client education; research; nonclinical supervision
30 of employees; nonclinical consultation; nonclinical assessment and referral; mediation; expert testimony; and
31 advocacy.

32 (2) “Another jurisdiction” means another state of the United States, the District of Columbia, a territory of the
33 United States, or a country outside of the United States or its territories.

34 (3) “Applicant” means an individual seeking licensure under this chapter.

35 (4) “Baccalaureate social work” is the entry level of social work and means the application of social work
36 theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or
37 biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. “Baccalaureate
38 social work” is generalist practice.

39 (5) “Baccalaureate social worker” means an individual licensed to practice baccalaureate social work.

40 (4) (6) ~~“Board” shall mean~~ means the Board of ~~Clinical~~ Social Work Examiners.

41 (7) “Case management” means a method to plan, provide, evaluate, and monitor services from a variety of
42 resources on behalf of and in collaboration with a client.

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

50 social work practice. Such application and services may be provided through the use of telemedicine in a manner
51 deemed appropriate by regulation. Services also may include participation in telehealth as further defined in regulation.

52 (8) "Client" means an individual, couple, family, group, organization, or community that seeks or receives
53 social work services from a social worker or an organization whether those services are free or for a fee.

54 (9) "Clinical supervisor" means a licensed clinical social worker who has met the qualifications as determined
55 by the Board.

56 (10) "Consultation" means an advisory professional relationship between a social worker and other
57 professionals, with the social worker ethically maintaining responsibility for all judgments and decisions regarding
58 service to a client.

59 (11) "Counseling" means a method, in addition to psychotherapy, advocacy, research, and consultation, used
60 by social workers to assist individuals, couples, families, and groups in learning how to solve problems and make
61 decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

62 (3) (12) "Distant site" means a site at which a health-care provider legally allowed to practice in the State is
63 located while providing health-care services by means of telemedicine or telehealth.

64 (13) "Division" means the Division of Professional Regulation.

65 (14) "Excessive use or abuse of drugs" means the use of narcotics, controlled substances, or illegal drugs
66 without a prescription from a licensed physician or other professional licensed to prescribe, or the abuse of alcoholic
67 beverages such that it impairs an individual's ability to perform social work.

68 (15) "Generalist practice" means a professional problem process that includes engagement, assessment,
69 treatment planning, intervention, and evaluation. Methods of generalist practice include case management, information
70 and referral, counseling, consultation, education, advocacy, community organization, research, and the development,
71 implementation, and administrations of policies, programs, or activities.

72 (16) "Good standing" means meeting the standards of § 3907(a) of this title.

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

76 (17) "Licensed clinical social work" means the specialty within the practice of master's social work, that
77 requires the application of specialized clinical knowledge and advanced clinical skills of social work theory,
78 knowledge, methods, and ethics, as applied to a clinical, therapeutic relationship which may include the person-in-
79 environment perspective, to the assessment, diagnosis, prevention, and treatment of biopsychosocial dysfunction,

80 disability, and impairment, including mental and emotional disorders, developmental disabilities, and substance abuse.
81 “Licensed clinical social work” includes the provision of individual, marital, couple, family and group counseling, and
82 psychotherapy, as they are related to clinical, therapeutic relationship. “Licensed clinical social work” also includes
83 private practice and supervision. “Licensed clinical social work” does not include the administration of psychological
84 tests, which are reserved exclusively for use by licensed psychologists under Chapter 35 of this title.

85 ~~(5) (18) "Licensed clinical social worker" shall mean any individual duly licensed under this chapter means~~
86 an individual licensed to practice licensed clinical social work.

87 (19) “Licensee” means an individual licensed under this chapter.

88 (20) “Master’s social work” means the application of social work theory, knowledge, methods, ethics, and the
89 professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals,
90 couples, families, groups, organizations, and communities. “Master’s social work” is the application of generalist
91 practice, specialized knowledge, and advanced practice skills, and includes supervision.

92 (21) “Master’s social worker” means an individual licensed to practice master’s social work.

93 ~~(6) (22) "Originating site" means a site in Delaware at which a patient client is located at the time health-care~~
94 ~~services are provided to him or her the client by means of telemedicine or telehealth, unless the term is otherwise~~
95 ~~defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of~~
96 ~~law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.~~

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

99 (23) “Person-in-environment perspective” means observing human behavior, development, and function in the
100 context of the environment, social functioning, mental health, physical health, or any combination thereof.

101 (24) “Social work” means baccalaureate social work, master’s social work, and licensed clinical social work,
102 collectively or, if context demands, individually.

103 (25) “Social worker” means baccalaureate social worker, master’s social worker, and licensed clinical social
104 worker, collectively or, if context demands, individually.

105 ~~(8) (26) "Store and forward transfer" means the transmission of a patient's client's medical information either~~
106 ~~to or from an originating site or to or from the provider at the distant site, but does not require the patient client being~~
107 ~~present nor must it present or the transmission to be in real time.~~

108 (9) (27) "Substantially related" means the nature of the criminal ~~conduct~~, conduct for which the person
109 individual was ~~convicted~~, convicted has a direct bearing on the fitness or ability to perform 1 or more of the duties or
110 responsibilities necessarily related to ~~clinical~~ social work.

111 (28) "Supervision" means the professional relationship between a clinical supervisor and a social worker that
112 provides evaluation and direction over the services that the social worker provides and promotes continued
113 development of the social worker's knowledge, skills, and abilities to provide social work services in an ethical and
114 competent manner.

115 (40) (29) "Telehealth" means the use of information and communications technologies consisting of
116 telephones, remote ~~patient~~ client monitoring ~~devices~~ devices, or other electronic means which support clinical health
117 care, provider consultation, ~~patient~~ client and professional health-related education, public health, health
118 administration, and other services as described in regulation.

119 (44) (30) "Telemedicine" means a form of telehealth which is the delivery of clinical health-care services by
120 means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the
121 application of secure video conferencing or store and forward transfer technology to provide or support health-care
122 delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care ~~management~~ management,
123 and self-management of a ~~patient's~~ client's health care by a licensee practicing within ~~his or her~~ the licensee's scope of
124 practice as would be practiced in-person with a ~~patient~~ client and with other restrictions as defined in regulation.

125 Section 4. Amend § 3903, Title 24 of the Delaware Code by making deletions as shown by strike through and
126 insertions as shown by underline as follows and redesignating accordingly:

127 § 3903. License required.

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

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

138 (a) It is unlawful for an individual who is not licensed under this chapter to do any of the following:

139 (1) Engage in the practice of social work.

140 (2) Hold the individual out to the public in this State as being qualified to practice social work.

141 (3) Use in connection with the individual's name or otherwise assume or use any title or description

142 conveying or tending to convey the impression that the individual is qualified to practice social work.

143 (b) It is unlawful for an individual to practice social work in this State if the individual's license to practice social

144 work is expired, suspended, or revoked.

145 (c) Exemptions.

146 (1) This chapter does not apply to an individual who meets any of the following criteria:

147 a. Is licensed in good standing to practice social work in another jurisdiction, provided that the individual

148 has made prior written application to the Board to practice social work in this State and the Board has approved

149 the application. An individual may practice social work, within the scope of practice designated by the individual's

150 license, in this State under this subsection for no more than 30 days per year. An individual who provides services

151 under this subsection is deemed to have submitted to the Board's jurisdiction and bound by the laws of this State.

152 b. Is certified or licensed in this State by any other law, and is engaged in and acting within the scope of

153 the profession or occupation for which the individual is certified or licensed.

154 c. Is clergy of any denomination, when engaging in activities that are within the scope of the performance

155 of that individual's regular or specialized ministerial duties.

156 d. Performs assessments such as basic information collection, gathering of demographic data, and

157 informal observations, screening, and referral to determine a client's general eligibility for a program or service

158 and a client's functional status for the purpose of determining need for services unrelated to a behavioral health

159 diagnosis or treatment plan.

160 e. Creates, develops, or implements a service plan unrelated to a behavioral health diagnosis or treatment

161 plan. Service plans may include job training and employability, housing, general public assistance, in-home

162 services and supports or home-delivered meals, de-escalation techniques, peer services, or skill development.

163 f. Participates as a member of a multi-disciplinary team to implement behavioral health services or a

164 treatment plan, provided that all of the following conditions are met:

165 1. The team includes 1 or more health care professionals licensed under Title 24.

166 2. The activities that each team member performs are consistent with the scope of practice for that

167 member's license under Title 24.

168 3. Individuals exempted under paragraph (c)(1)f. of this section do not engage in any of the following
169 restricted practices:

170 A. Diagnosis of mental, emotional, behavioral, addictive, and developmental disorders and
171 disabilities.

172 B. Client assessment and evaluation.

173 C. Provision of psychotherapeutic treatment.

174 D. Development and implementation of assessment-based treatment plans.

175 (2) Nothing in this subsection may be construed as requiring a license for any particular activity or function
176 solely because the activity or function is not listed in this subsection.

177 (3) Licensure of social workers employed on [the date of enactment of this Act] by a state agency or private or
178 non-profit agency, including hospitals, is voluntary. However, an individual who is newly-employed or employed in a
179 new position by a state agency or private or non-profit agency 5 years after [the date of enactment of this Act] must be
180 licensed under this chapter if the individual provides services as a social worker. Individuals to whom this paragraph
181 applies and who choose to seek licensure must do so under the grandfathering provisions of § 3907B of this title.

182 Section 5. Amend § 3904, Title 24 of the Delaware Code by making deletions as shown by strike through and
183 insertions as shown by underline as follows and redesignating accordingly:

184 § 3904. Board of ~~Clinical~~ Social Work Examiners — Appointment; composition; qualifications; term of office;
185 suspension or removal; compensation.

186 (a) The Board of ~~Clinical~~ Social Work Examiners (“Board”) ~~shall consist~~ consists of 7 members who are
187 appointed by the Governor and meet the following qualifications:

188 (1)a. Four professional members, ~~who shall be licensed clinical social workers, consisting of 2 licensed~~
189 clinical social workers and 2 at-large professional members who may be baccalaureate social workers, master’s social
190 workers, or licensed clinical social workers.

191 b. ~~and 3~~ Three public members. To serve on the Board, a public member shall not be, nor ever have been,
192 a ~~clinical~~ members who are accessible to inquiries, comments, and suggestions from the general public and are
193 not, nor have ever been, any of the following:

194 1. A social worker, ~~nor~~ or a member of the immediate family of a ~~clinical~~ social worker; worker.

195 2. ~~shall not have been employed~~ Employed by a social work agency; agency.

196 3. ~~shall not have had~~ Holder of a material financial interest in the providing of goods and services to
197 clinical social workers; workers.

198 ~~4. nor have been engaged~~ Engaged in an activity directly related to clinical social work. Such public
199 ~~members shall be accessible to inquiries, comments and suggestions from the general public.~~

200 (b) Each member ~~shall serve~~ is appointed for a period of 3 years, and may ~~succeed himself or herself for~~ serve 1
201 ~~additional term; provided, however, that where a member was initially appointed to fill a vacancy, such member may~~
202 ~~succeed himself or herself for only 1 additional full term. Any person appointed to fill a vacancy on the Board shall hold~~
203 ~~office for the remainder of the unexpired term of the former member~~ term. Each term of office shall ~~expire~~ expires on the
204 date specified in the ~~appointment, except that each member shall serve until a successor is duly appointed~~ appointment;
205 however, a member remains eligible to participate in Board proceedings until the Governor replaces that member.

206 (c) ~~A person who has never served on the Board may be appointed to the Board 2 consecutive times; but, no such~~
207 ~~person shall thereafter be eligible for 2 consecutive appointments. No person who has been twice appointed to the Board, or~~
208 ~~who has served on the Board for 6 years within any 9 year period, shall again be appointed to the Board until an interim~~
209 ~~period of at least 1 term has expired since such person last served. An individual who has served on the Board for 6 years~~
210 ~~may not be appointed to the Board again until the expiration of an interim period of at least 3 years since the individual last~~
211 ~~served.~~

212 (d) ~~A member of the Board shall be suspended or removed by the Governor~~ The Governor may suspend or remove
213 a member for misfeasance, nonfeasance, malfeasance, or neglect of duty.

214 (1) A member is deemed in neglect of duty if the member is absent from 3 consecutive Board meetings
215 without good cause or fails to attend at least 50% of all regular Board meetings in a calendar year.

216 (2) A member who is deemed in neglect of duty is considered to have resigned.

217 (3) A member subject to disciplinary proceedings shall be is disqualified from Board business until the charge
218 is adjudicated, or the matter is otherwise concluded.

219 (4) ~~A Board~~ member may appeal any suspension or removal to the Superior Court.

220 (e) ~~No~~ A member ~~of the Board~~ while serving on the Board shall may not be a president, ~~chairperson~~ chair, or other
221 elected official of a professional association for social workers other than the Board.

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

224 (g) Each member of the Board shall be reimbursed for all expenses involved in each meeting, including travel, and
225 in addition shall receive compensation per meeting attended in an amount determined by the Division in accordance with
226 Del. Const. art. III, § 9.

227 (h) An act or vote by an individual appointed in violation of this section is invalid. An amendment or revision of
228 this chapter is not sufficient cause for an appointment or attempted appointment in violation of subsection (e) of this
229 section, unless the amendment or revision amends this chapter to permit such an appointment.

230 Section 6. Amend § 3905, Title 24 of the Delaware Code by making deletions as shown by strike through and
231 insertions as shown by underline as follows:

232 § 3905. Board of ~~Clinical~~ Social Work Examiners — ~~Officers;~~ Organization; ~~officers;~~ meetings; quorum.

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

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

238 (c) A majority of members shall ~~constitute a quorum; and no action shall be taken without the affirmative vote of~~
239 ~~at least 4 members. Any member who fails to attend 3 consecutive meetings, or who fails to attend at least 1/2 of all regular~~
240 ~~business meetings during any calendar year, shall automatically upon such occurrence be deemed to have resigned from~~
241 ~~office and a replacement shall be appointed.~~ constitutes a quorum for the purpose of transacting business. The Board may
242 not take disciplinary action without the affirmative vote of at least 4 members.

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

247 Section 7. Amend § 3906, Title 24 of the Delaware Code by making deletions as shown by strike through and
248 insertions as shown by underline as follows:

249 § 3906. Board of ~~Clinical~~ Social Work Examiners — Powers and duties.

250 (a) The Board ~~shall have the authority to~~ may do all of the following:

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

255 (2) Designate the application form to be used by all ~~applicants, applicants~~ and to process all ~~applications;~~
256 ~~applications. An application form may not require a picture of the applicant; information relating to the applicant's~~
257 ~~citizenship, place of birth, or length of state residency; or personal references.~~

258 (3) Designate, ~~under § 3908(a) of this title,~~ a written national examination, prepared by either ~~the a~~ a national
259 professional association or ~~by a recognized legitimate national testing service and service,~~ approved by the ~~Division of~~
260 ~~Professional Regulation Division, and administered to applicants.~~ The examination shall ~~shall~~ must be prepared for testing
261 on a national basis, and not specifically prepared at the Board's request ~~of the Board~~ for its individual use. ~~The national~~
262 ~~examination shall be taken by persons applying for licensure except applicants who qualify for licensure by reciprocity;~~

263 (4) ~~Provide for the administration of all examinations, including notice and information to applicants;~~
264 [Repealed.]

265 (5) Evaluate certified records to determine whether an applicant ~~for licensure,~~ who has been previously
266 licensed, ~~certified~~ certified, or registered in another jurisdiction to practice ~~clinical social work,~~ work has engaged in
267 any act or offense that would be grounds for disciplinary action under this chapter and whether there are disciplinary
268 proceedings or unresolved complaints pending against ~~such applicants~~ the applicant for such acts or ~~offenses;~~ offenses.

269 (6) Grant licenses to all ~~persons~~ applicants who meet the qualifications for licensure ~~and/or~~ or renewal of
270 ~~licenses;~~ licenses.

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

272 (8) Refer all complaints from licensees and the public concerning ~~practitioners~~ licensees, or concerning
273 practices of the Board or of the profession, to the ~~Division of Professional Regulation~~ for investigation ~~pursuant to~~
274 under § 8735(h) of Title 29; and, 29 and assign a Board member ~~of the Board~~ to assist the Division in an advisory
275 capacity with the investigation of the technical aspects of the complaint. ~~Such member shall recuse himself or herself~~
276 ~~from the deliberations on the complaint;~~ A Board member who is assigned to assist the Division under this paragraph
277 may not participate in deliberations on the complaint.

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

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

284 (11) ~~Where it has been determined~~ If the Board determines after a disciplinary ~~hearing,~~ hearing that penalties
285 or sanctions should be imposed, ~~to~~ designate and impose the appropriate sanction or ~~penalty after time for appeal has~~
286 ~~lapsed;~~ penalty.

287 (12) Bring proceedings in the courts for the enforcement of this chapter.

288 (13) Perform random post-renewal audits of continuing education credits submitted by licensees for license
289 renewal.

290 (14) Request a copy of supervisory logs from an applicant who has applied for license under this chapter, as
291 established in the rules and regulations.

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

294 Section 8. Amend § 3907, Title 24 of the Delaware Code by making deletions as shown by strike through and
295 insertions as shown by underline as follows and redesignating accordingly:

296 § 3907. Qualifications of applicants; licensure tiers; report to Attorney General; judicial review.

297 (a) An applicant who is applying for examination and licensure under this chapter shall submit evidence, verified
298 by oath and satisfactory to the Board, that ~~such person~~ the applicant meets all of the following criteria:

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

310 (2) Has not engaged in any of the acts or offenses that would be grounds for disciplinary action under this
311 ~~chapter;~~ ~~has no disciplinary proceedings or unresolved complaints pending against that person in any jurisdiction~~
312 ~~where the applicant previously has been, or currently is, licensed to practice clinical social work.~~ chapter. Applicants
313 who have been or who currently are licensed to practice ~~clinical~~ social work in another jurisdiction must provide the

314 Board with a certified statement to this effect from the ~~Board, or from a board or~~ comparable agency of each
315 jurisdiction in which the applicant has ever been licensed to practice ~~clinical~~ social work. Applicants for licensure in
316 ~~this State shall be~~ are deemed to have given consent to the release of such information and ~~to waive~~ waived all
317 objections to the admissibility of such ~~evidence;~~ evidence.

318 (3) Has not been convicted of a felony sexual ~~offense;~~ offense.

319 (4)a. Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain
320 the following:

321 a. 1. A report from the State Bureau of Identification of the applicant's entire criminal history record
322 ~~from the State Bureau of Identification in this State~~ or a statement from the State Bureau of Identification that
323 the State Central Repository contains no such information relating to that ~~person~~ individual.

324 b. 2. A report of the applicant's entire federal criminal history record ~~pursuant to~~ under the Federal
325 Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of
326 Identification ~~shall be~~ is the intermediary for purposes of this section and the Board ~~of Clinical Social Worker~~
327 ~~Examiners shall be~~ is the screening point for the receipt of ~~said~~ the federal criminal history records.

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

332 (5) ~~Shall~~ Does not have any impairment related to drugs or alcohol or a finding of mental incompetence by a
333 physician, licensed mental health professional, or licensed or certified substance abuse professional that would limit the
334 applicant's ability to undertake the practice of ~~clinical~~ social work in a manner consistent with the safety of the ~~public;~~
335 ~~and public.~~

336 (6) ~~Shall provide such~~ Has or will provide all information as ~~may be~~ required on ~~an~~ the application ~~form~~
337 ~~furnished by the Board. No application form shall require a picture of the applicant; require information relating to~~
338 ~~citizenship, place of birth, length of state residency; nor require personal references.~~

339 (7) Has not been convicted of a crime that is substantially related to social work or any offense which would
340 limit the applicant's ability to carry out the applicant's professional duties with due regard for the health and safety of
341 clients. The Board may, by affirmative vote of a quorum of the Board, waive the requirement of this paragraph if it
342 finds, after a hearing or review of documentation, that the applicant seeking waiver meets, when the applicant's
343 application is filed, all of the following criteria:

344 a. For waiver of a misdemeanor conviction or violation, the applicant is not incarcerated, on work release,
345 on probation, on parole, or serving any part of a suspended sentence and is in substantial compliance with all court
346 orders pertaining to fines, restitution, and community service.

347 b. For waiver of a felony conviction, more than 5 years have elapsed since the date of conviction; the
348 applicant is not incarcerated, on work release, on probation, on parole, or serving any part of a suspended
349 sentence; and the applicant is in substantial compliance with all court orders pertaining to fines, restitution, and
350 community service.

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

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

353 e. Granting the waiver will not endanger the public health, safety, or welfare.

354 (8) Has submitted to the Board reports from child and adult abuse registries in Delaware and every state in
355 which the applicant has ever been licensed or employed, or resided as an adult.

356 (b) Licensed clinical social worker. An applicant who is applying for licensure as a licensed clinical social worker
357 shall submit evidence, verified by oath and satisfactory to the Board, that the applicant meets all of the following
358 requirements:

359 (1) Meets the criteria under subsection (a) of this section.

360 (2) Has graduated and received a master's or doctoral degree in social work from a program accredited by the
361 Council on Social Work Education or its successor, or has graduated and received a doctoral degree from a program
362 the Board has approved.

363 (3) Has successfully passed an examination that the Board designated under § 3906(a)(3) of this title.

364 (4) Has completed 2 years of supervised experience that the Board has approved, under the supervision of a
365 licensed clinical social worker, after receiving a master's or doctoral degree described in paragraph (b)(2) of this
366 section. If an applicant demonstrates to the Board's satisfaction and in compliance with the Board's rules and
367 regulations that a licensed clinical social worker was not available for supervision, the applicant may complete 2 years
368 of supervised experience supervised by a master's social worker, licensed psychologist, or licensed psychiatrist, if the
369 supervision meets all other requirements established in the Board's rules and regulations.

370 (c) Master's social worker. An applicant who is applying for licensure as a master's social worker shall submit
371 evidence, verified by oath and satisfactory to the Board, that the applicant meets all of the following requirements:

372 (1) Meets the criteria under subsection (a) of this section.

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

375 (3) Has successfully passed an examination that the Board designated under § 3906(a)(3) of this title.

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

380 (d) Baccalaureate social worker. An applicant who is applying for licensure as a baccalaureate social worker shall
381 submit evidence, verified by oath and satisfactory to the Board, that the applicant meets all of the following requirements:

382 (1) Meets the criteria under subsection (a) of this section.

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

385 (3) Has successfully passed an examination that the Board designated under § 3906(a)(3) of this title.

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

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

393 Section 9. Amend Chapter 39, Title 24 of the Delaware Code by making deletions as shown by strike through and
394 insertions as shown by underline as follows and redesignating accordingly:

395 § 3907A. Applicants educated outside of the United States or its territories.

396 In addition to meeting all other applicable requirements under § 3907 and § 3909 of this title, an applicant whose
397 application is based on a diploma or degree issued by a social work program outside of the United States or its territories
398 shall furnish evidence satisfactory to the Board that the applicant completed a course of professional instruction equivalent
399 to a program approved by the Council on Social Work Education or its successor. The applicant shall arrange and pay for a
400 credential evaluation of the foreign program, to be completed by an agency that the Board has approved.

401 Section 10. Amend Chapter 39, Title 24 of the Delaware Code by making deletions as shown by strike through and
402 insertions as shown by underline as follows and redesignating accordingly:

403 § 3907B. Qualifications of applicant; grandfathering.

404 (a) Grandfathering period.

405 (1) The Board shall issue a license to an applicant who meets all the applicable requirements under this
406 section and has submitted a completed, signed application and the applicable fee within 2 years of [the date of
407 enactment of this Act].

408 (2) If the applicant does not provide all of the information that the Board has requested within 2 years after
409 [the date of enactment of this Act], the application for licensure is considered ineligible for grandfathering and is
410 closed.

411 (b) An applicant who applies for licensure as a master's social worker during the grandfathering period shall
412 submit evidence, verified by oath and satisfactory to the Board, that the applicant meets the criteria under § 3907(a) of this
413 title and has at least 1 of the following:

414 (1) At least 10 years of work experience obtained within 12 years immediately preceding application and
415 supported by an experience affidavit, as established by the Board's rules and regulations. The applicant must have
416 obtained the work experience within the scope of master's social work.

417 (2) At least 2 years of work experience obtained within the 4 years immediately preceding application and
418 supported by an experience affidavit, as established by the Board's rules and regulations. The applicant must have
419 obtained the work experience within the scope of master's social work. An applicant seeking licensure under this
420 subsection must also have graduated and received a master's degree that meets at least 1 of the following criteria:

421 a. Is a master's degree in social work from a program accredited by the Council on Social Work
422 Education or its successor.

423 b. Is a master's degree in human services, social and behavioral sciences, psychology, sociology, or other
424 related degree that the Board accepts, as established by the Board's rules and regulations, from an accredited
425 college or university.

426 (c) An applicant who applies for licensure as a baccalaureate social worker during the grandfathering period shall
427 submit evidence, verified by oath and satisfactory to the Board, that the applicant meets the criteria under § 3907(a) of this
428 title and has at least 1 of the following:

429 (1) At least 3 years of work experience obtained within 5 years immediately preceding application and
430 supported by an experience affidavit, as established by the Board's rules and regulations. The applicant must have
431 obtained work experience within the scope of baccalaureate social work.

432 (2) At least 1 year of work experience obtained within 2 years immediately preceding application and
433 supported by an experience affidavit, as established by the Board's rules and regulations. The applicant must have
434 obtained work experience within the scope of baccalaureate social work. The applicant must have also graduated and
435 received a baccalaureate degree that meets at least 1 of the following criteria:

436 a. Is a baccalaureate degree in social work from a program accredited by the Council on Social Work
437 Education or its successor.

438 b. Is a baccalaureate degree from an accredited college or university in human services, social and
439 behavioral sciences, psychology, sociology, or other related degree that the Board accepts, as established by the
440 Board's rules and regulations.

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

443 § 3908. Examination.

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

450 (1) An examination, as described in § 3906(a)(3) of this title, to be administered to applicants.

451 (2) The maximum number of times an applicant may take the national examination designated under
452 paragraph (a)(1) of this section.

453 (b) In the event the applicant has already taken and passed the national clinical examination prepared by the
454 ~~American Association of State Social Work Boards, or its successor~~ designated under paragraph (a)(1) of this section, the
455 Board shall accept the certificate or other evidence of successful completion shall be accepted, and no the applicant is not
456 required to take any further state examination shall be necessary.

457 Section 12. Amend § 3909, Title 24 of the Delaware Code by making deletions as shown by strike through and
458 insertions as shown by underline as follows and redesignating accordingly:

459 § 3909. Reciprocity.

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

470 (a) Upon payment of the required fee and submission and acceptance of a written application on forms that the
471 Board provides, the Board shall grant a license to an applicant who has done all of the following:

472 (1) Presented proof of a current, active license in good standing and with no disciplinary action taken against
473 the applicant in another jurisdiction whose standards the Board has determined are substantially similar to those of this
474 State.

475 (2) Presented proof that, in any other jurisdiction in which the applicant is or was licensed, the applicant's
476 license is in good standing or the applicant is voluntarily no longer licensed.

477 (3) Successfully passed an examination that the Board designated under § 3906(a)(3) of this title.

478 (4) Provided the Board with a certified statement as to whether any outstanding or ongoing disciplinary
479 actions or ethical violations are against the applicant, or whether the applicant has engaged in any of the acts or
480 offenses that may be grounds for disciplinary action under this chapter. Applicants are deemed to consent to the release
481 of information regarding disciplinary actions or ethical violations and waive all objections to the admissibility of the
482 information as evidence at any hearing or other proceeding to which the applicant may be subject under this chapter.

483 (b) An applicant who has a license in another jurisdiction that has less stringent requirements than those of this
484 State may obtain a license under this section if the applicant can prove to the Board's satisfaction that the applicant has
485 worked in another jurisdiction in the field for which the applicant is seeking a license in this State for at least 5 years in the

486 7 years immediately preceding application in this State. The Board may determine whether the requirements of another
487 jurisdiction are less stringent than those of this State.

488 Section 13. Amend § 3910, Title 24 of the Delaware Code by making deletions as shown by strike through and
489 insertions as shown by underline as follows:

490 § 3910. Fees.

491 The amount to be charged for each fee imposed under this chapter shall must approximate and reasonably reflect
492 all costs necessary to defray the Board's expenses ~~of the Board as well as the~~ and proportional expenses ~~incurred by the~~
493 ~~Division of Professional Regulation that the Division incurs~~ in its services on behalf of the Board. ~~There shall be a A~~
494 separate fee must be charged for each service or ~~activity; but, activity,~~ but no fee shall may be charged for a purpose not
495 specified in this chapter. ~~The application fee shall not be combined with any other fee or charge. At the beginning of each~~
496 ~~calendar year the Division of Professional Regulation, or any other state agency acting in its behalf, shall compute, for each~~
497 ~~separate service or activity, the appropriate Board fees for the coming year.~~

498 Section 14. Amend § 3911, Title 24 of the Delaware Code by making deletions as shown by strike through and
499 insertions as shown by underline as follows:

500 § 3911. Issuance of license; renewal; inactive status; ~~reinstatement.~~

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

504 (b)(1) Each license shall must be renewed biennially, in such a manner ~~as is determined by the Division of~~
505 ~~Professional Regulation that the Division determines,~~ and upon payment of the appropriate required fee ~~and submission of a~~
506 ~~renewal form provided by the Division of Professional Regulation, and proof attestation~~ that the licensee has met the
507 continuing education requirements that the Board established ~~by the Board.~~

508 (2) ~~The~~ Each license ~~will expire~~ expires on ~~January 1~~ January 31 of the renewal year.

509 (3) ~~The Division~~ A late fee shall be set by the Division of Professional Regulation a late fee. If a practitioner
510 licensee fails to renew the license in 1 year from the renewal date, the ~~practitioner licensee~~ licensee must ~~re-apply~~ reapply for
511 licensure.

512 (c)(1) Any licensee, upon written request, may be placed in an inactive status for up to ~~1 year~~ 3 years. ~~The Board~~
513 ~~may extend the inactive status for additional 1 year periods upon written request of the licensee.~~

514 (2) The renewal fee of a licensee on inactive status ~~will~~ must be prorated in accordance with the amount of
515 time ~~a person~~ the licensee is on inactive status.

516 (3) The licensee may ~~re-enter practice~~ reactivate the license after meeting all of the following criteria:
517 a. Providing the Board with written notification ~~to the Board of the licensee's intent to do so and after that~~
518 the licensee intends to reactivate the license.
519 b. ~~satisfying~~ Satisfying all the continuing education ~~requirements and requirements.~~
520 c. ~~paying~~ Paying the appropriate renewal fee.

521 (4) A licensee who fails to reactivate a license within 3 years of being placed on inactive status must reapply
522 for licensure.

523 (d) ~~A former licensee, whose license has been revoked, and who subsequently is permitted to apply for~~
524 ~~reinstatement, shall apply for a new license, and shall successfully complete the national clinical examination and shall pay~~
525 ~~all appropriate fees.~~

526 Section 15. Amend § 3912, Title 24 of the Delaware Code by making deletions as shown by strike through and
527 insertions as shown by underline as follows:

528 § 3912. Continuing education.

529 The Board shall promulgate regulations that require licensees to complete ~~at least 45~~ continuing education hours
530 for each biennial licensing period. ~~Continuing education may consist of, but not be limited to, additional professional~~
531 ~~development in the field of clinical social work, including attendance at workshops, seminars, lectures and preparation of a~~
532 ~~first-time clinical course.~~

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

538 Section 16. Amend § 3913, Title 24 of the Delaware Code by making deletions as shown by strike through and
539 insertions as shown by underline as follows:

540 § 3913. Privileged communications.

541 ~~No licensed clinical~~ A social worker may not disclose any information acquired from ~~persons~~ a person consulting
542 the social worker in a professional capacity except:

543 (1) With the written consent of ~~such person; or~~ the person or, in the case of death or disability, the written
544 consent of ~~such~~ the person's personal ~~representative; representative.~~

545 (2) ~~That a licensed clinical~~ A social worker shall ~~not be~~ is not required to treat as confidential a
546 communication that reveals the planning of any violent crime or ~~act~~; act.

547 (3) ~~That any licensed clinical~~ A social worker who knows or reasonably suspects child abuse or neglect shall
548 ~~make a~~ must report to the Division of ~~Child Protective~~ Family Services of the Department of Services for Children,
549 Youth and Their Families according to § 904 of Title 46; 16.

550 (4) ~~When~~ If the person waives the privilege by bringing charges against the licensed ~~clinical~~ social worker.

551 Section 17. Amend § 3914, Title 24 of the Delaware Code by making deletions as shown by strike through and
552 insertions as shown by underline as follows:

553 § 3914. Complaints.

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

559 (b) The Division shall issue a final, written report at the conclusion of its investigation of a complaint under this
560 chapter.

561 Section 18. Amend § 3915, Title 24 of the Delaware Code by making deletions as shown by strike through and
562 insertions as shown by underline as follows and redesignating accordingly:

563 § 3915. Grounds for discipline; procedure.

564 (a) ~~Practitioners regulated under this chapter shall be~~ A licensee or former licensee is subject to those disciplinary
565 actions ~~set forth~~ established in § 3916 of this title if, after a hearing, the Board finds that the ~~practitioner~~ licensee or former
566 licensee has done any of the following:

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

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

572 (3) ~~Excessively used or abused drugs either in the past or currently; excessive use or abuse of drugs shall~~
573 ~~mean any use of narcotics, controlled substances, or illegal drugs without a prescription from a licensed physician, or~~

574 the abuse of alcoholic beverage such that it impairs the practitioner's ability to perform the work of a clinical social
575 worker; Engaged within the previous 10 years or currently engages in the excessive use or abuse of drugs.

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

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

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

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

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

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

591 (5) ~~Violated a lawful provision of this chapter, chapter or any lawful regulation established thereunder; under~~
592 ~~this chapter.~~

593 (6) ~~Exceeded the scope of the licensee's license, as the scope is defined in this chapter or any lawful~~
594 ~~regulation established under this chapter. For example, baccalaureate social work may be practiced only under~~
595 ~~supervision as provided by regulation. And, a master's social worker must be supervised to provide clinical services as~~
596 ~~provided by regulation.~~

597 (6) ~~Had the practitioner's licensee's license, certification certification, or registration as a clinical social~~
598 ~~worker suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another~~
599 ~~jurisdiction; provided, however, that jurisdiction, if the underlying grounds for such action in another jurisdiction have~~
600 ~~been presented to the Board by certified record; and the Board has determined that the facts found by the appropriate~~
601 ~~authority in the other jurisdiction constitute 1 or more of the acts defined in this chapter. Every person licensed as a~~
602 ~~clinical social worker in this State shall be licensee is deemed to have given consent to the the social work board or~~
603 ~~other comparable agency in another jurisdiction to release of this information by the Board of Clinical Social Work~~

604 ~~Examiners or other comparable agencies in another jurisdiction~~ and to waive all objections to the admissibility of
605 previously adjudicated evidence of such acts or ~~offenses~~; offenses.

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

610 (8) Been convicted of a felony sexual ~~offense~~; offense.

611 (9) Failed to report child abuse or neglect as required by § 903 of Title 16, or ~~any successor thereto~~; any of its
612 successors.

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

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

617 (c) Subject to the provisions of this chapter and subchapter IV of Chapter 101 of Title 29, ~~no license shall be~~
618 ~~restricted, suspended or revoked by the Board~~ the Board may not restrict, suspend, or revoke a license, and no practitioner's
619 ~~right to practice shall be limited by the Board~~ or limit the licensee's right to practice, until such ~~practitioner~~ the licensee has
620 been given notice and an opportunity to be heard in accordance with the Administrative Procedures Act, Chapter 101 of
621 Title 29.

622 Section 19. Amend § 3916, Title 24 of the Delaware Code by making deletions as shown by strike through and
623 insertions as shown by underline as follows:

624 § 3916. Disciplinary sanctions.

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

628 (1) Issue a letter of ~~reprimand~~; reprimand.

629 (2) ~~Censure a practitioner~~; [Repealed.]

630 (3) ~~Place a practitioner~~ the licensee on probationary status, and require the ~~practitioner licensee~~ to do one or
631 more of the following:

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

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

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

637 (4) Suspend ~~any practitioner's license; the license.~~

638 (5) ~~Revoke a practitioner's license~~ Permanently revoke the license.

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

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

642 (c)(1) ~~In the event of~~ If the Board receives a formal or informal complaint concerning the activity of a licensee
643 that presents a clear and immediate danger to the public health, ~~safety~~ safety, or welfare, the Board may ~~temporarily~~
644 suspend the ~~person's licensee's~~ license, pending a hearing, upon the written order of the Secretary of State or the Secretary's
645 designee, with the concurrence of the Board chair or the Board chair's designee.

646 (2) ~~An order~~ The Board may not temporarily suspend a license ~~may not be issued~~ unless the
647 ~~person licensee~~ or ~~the person's licensee's~~ attorney received at least 24 hours' written or oral notice before the ~~temporary~~
648 suspension so that the ~~person licensee~~ or ~~the person's licensee's~~ attorney may file a written response to the proposed
649 suspension.

650 (3) The decision as to whether to issue the ~~temporary~~ order of suspension ~~will~~ must be decided on the written
651 submissions.

652 (4) An order of ~~temporary~~ suspension pending a hearing may remain in effect for no longer than 60 days from
653 the date of the issuance of the order unless the ~~temporarily suspended person licensee~~ requests a continuance of the
654 hearing date. If the ~~temporarily suspended person licensee~~ requests a continuance, the order of ~~temporary~~ suspension
655 remains in effect until the hearing is convened and the Board renders a decision ~~is rendered by the Board~~. A ~~person~~
656 ~~licensee~~ whose license has been ~~temporarily~~ suspended ~~pursuant to~~ under this section may request an expedited
657 hearing. The Board ~~shall~~ must schedule the hearing on an expedited basis, provided that the Board receives the request
658 within 5 calendar days from the date on which the ~~person licensee~~ received notification of the decision to ~~temporarily~~
659 suspend the ~~person's~~ license.

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

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

664 (f) The Board shall permanently revoke the license of any ~~person~~ licensee who ~~the Board determines has violated~~
665 ~~§ 3915(a)(8) of this title~~ is convicted of a felony sexual offense.

666 Section 20. Amend § 3917, Title 24 of the Delaware Code by making deletions as shown by strike through and
667 insertions as shown by underline as follows:

668 § 3917. Hearing procedures.

669 (a) If a complaint is filed with the Board ~~pursuant to § 8735(h)~~ under § 8735 of Title ~~29, 29~~ alleging violation of
670 § 3915 of this title, the Board shall set a time and place to conduct a hearing on the complaint. ~~Notice of the hearing shall be~~
671 ~~given and the hearing conducted~~ The Board shall provide notice of the hearing and conduct the hearing in accordance with
672 the Administrative Procedures Act, Chapter 101 of Title 29.

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

677 (c) ~~Where the practitioner is in disagreement with the action of the Board, the practitioner~~ A licensee may appeal
678 the Board's decision to the Superior Court within 30 days of service, ~~or of the postmarked date of the copy of the decision~~
679 ~~mailed to the practitioner~~ the date that notice of the Board's decision is mailed. Upon such appeal appeal, the Court shall
680 hear the evidence on the record. ~~Stays shall be granted~~ The Court may grant a stay in accordance with § 10144 of Title 29
681 ~~of the Delaware Code.~~

682 Section 21. Amend § 3918, Title 24 of the Delaware Code by making deletions as shown by strike through and
683 insertions as shown by underline as follows:

684 § 3918. Penalties.

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

691 ~~order shall include all evidence known to or in possession of the Board. It is unlawful for an individual who is not licensed~~
692 ~~under this chapter to do any of the following:~~

693 ~~(1) Engage in the practice of social work.~~

694 ~~(2) Use in connection with that individual's name or otherwise assume or use any title or description that~~
695 ~~conveys or tends to convey the impression that the individual is qualified to practice social work.~~

696 ~~(b) Where the Board has placed a practitioner on probationary status under certain restrictions or conditions, and~~
697 ~~the Board has determined that such restrictions or conditions are being or have been violated by the practitioner, the Board,~~
698 ~~after a hearing on the matter, may suspend or revoke the practitioner's license. An individual who violates subsection (a) of~~
699 ~~this section is guilty of a misdemeanor and subject to the following penalties:~~

700 ~~(1) For the first offense, a fine of not less than \$500 nor more than \$1,000 for each offense.~~

701 ~~(2) For each subsequent offense, a fine of not less than \$1,000 nor more than \$2,000 for each offense.~~

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

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

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

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

715 Section 22. Amend § 3919, Title 24 of the Delaware Code by making deletions as shown by strike through and
716 insertions as shown by underline as follows and redesignating accordingly:

717 § 3919. Duty to report conduct that constitutes grounds for discipline or inability to practice.

718 (a) ~~Every person~~ A licensee to whom a license to practice has been issued under this chapter has a duty to report
719 to the Division of Professional Regulation in writing information that the ~~practitioner~~ licensee reasonably believes indicates
720 any of the following:

721 that ~~(1) That~~ any other practitioner licensed under this chapter licensee or any other healthcare provider has
722 engaged in or is engaging in conduct that would constitute grounds for disciplinary action under this chapter or the other
723 healthcare provider's licensing statute.

724 ~~(2) (b) Every person to whom a license to practice has been issued under this chapter has a duty to report to~~
725 ~~the Division of Professional Regulation in writing information that the licensee reasonably believes indicates that That~~
726 any other practitioner licensed under this chapter licensee or any other healthcare provider may be unable to practice
727 with reasonable skill and safety to the public ~~by reason of~~ for any of the following reasons:

728 ~~mental~~ a. Mental illness or mental ~~incompetence~~; incompetence.

729 ~~physical~~ b. Physical illness, including deterioration through the aging process or loss of motor ~~skill~~; skill.

730 ~~or excessive~~ c. Excessive use or abuse of drugs, including alcohol.

731 ~~(3) (c) Every person to whom a license to practice has been issued under this chapter has a duty to report to~~
732 ~~the Division of Professional Regulation any information that the reporting person reasonably believes indicates that a~~
733 ~~person That an individual~~ certified and registered to practice medicine in this State is or may be guilty of
734 unprofessional conduct or may be unable to practice medicine with reasonable skill or safety to ~~patients by reason of~~
735 clients for any of the following reasons:

736 ~~mental~~ a. Mental illness or mental ~~incompetence~~; incompetence.

737 ~~physical~~ b. Physical illness, including deterioration through the aging process or loss of motor ~~skill~~; skill.

738 ~~or excessive~~ c. Excessive use or abuse of drugs, including alcohol.

739 ~~(d) All reports (b) A licensee must file a report~~ required under ~~subsections (a), (b) and (c)~~ subsection (a) of this
740 section ~~must be filed~~ within 30 days of becoming aware of ~~such~~ information listed in paragraphs (a)(1), (2), or (3) of this
741 section. A ~~person~~ licensee reporting or testifying in any proceeding as a result of making a report ~~pursuant to~~ under this
742 section is immune from claim, suit, liability, damages, or any other recourse, civil or criminal, ~~so long as if~~ the ~~person~~
743 licensee acted in good faith and without gross or wanton ~~negligence~~; good negligence. Good faith being is presumed until
744 proven otherwise, and the licensee alleging gross or wanton negligence ~~required to be shown by the complainant~~ has the
745 burden of proof.

746 Section 23. Amend Chapter 39, Title 24 of the Delaware Code by making deletions as shown by strike through and
747 insertions as shown by underline as follows:

748 § 3920. Telehealth and telemedicine.

749 (a) Licensed clinical social work may be provided through the use of telemedicine as permitted by regulation, and
750 may include participation in telehealth as further defined in this chapter and by regulation.

751 (b) Notwithstanding any other provision of law, insurers, social workers, and clients may agree to alternative siting
752 arrangements other than the originating site, as they deem appropriate.
753 Section 24. This Act takes effect 1 year after enactment.

SYNOPSIS

The Board of Clinical Social Work Examiners (“Board”) has worked several years to amend Chapter 39, Title 24 of the Delaware Code to update the statute governing social work licensure and practice in this State. The Board’s work has included collaboration with the Division of Professional Regulation, the Joint Legislative Oversight and Sunset Committee, several state agencies, and other stakeholders. The result of that work is this Act, which modernizes Chapter 39 to include a multi-tiered licensure system similar to those already in place in most other states, reflect current practices and standards, and clarify the law.

Under current law, the Board regulates only licensed clinical social work (“LCSW”). The Board’s priority in amending Chapter 39 was to require licensure – with limited, specified exemptions – for all individuals who provide social work services in Delaware. Therefore, this Act establishes 3 tiers of social work and defines the scope of practice and licensure requirements for each tier:

- LCSW is a specialty within the practice of master’s social work (“MSW”). An LCSW license requires the application of specialized clinical knowledge and advanced clinical skills. An LCSW licensee may provide psychotherapy, practice independently, diagnose, or supervise. An LCSW license requires: (1) a master’s degree in social work or a doctoral degree in a program the Board has approved, (2) the passing of an examination, and (3) the completion of 2 years of supervised experience under the supervision of a LCSW licensee.

- MSW includes the application of specialized knowledge and advanced practice skills. Unlike LCSW, MSW does not include psychotherapy or diagnosing. An MSW license requires (1) a master’s degree in social work, and (2) the passing of an examination.

- Baccalaureate social work (“BSW”) is the entry level of social work and generalist practice. A BSW license requires (1) a baccalaureate degree in social work, and (2) the passing of an examination.

This Act includes a grandfather provision for MSW and BSW licenses. Under § 3907B, individuals who are already practicing within the scope of MSW or BSW but are not licensed may qualify for licensure depending on their education or experience. Section 3907B is limited to MSW and BSW; an LCSW license may not be grandfathered. To qualify under § 3907B, the following requirements must be met:

- An MSW applicant must submit documentation from an employer that the individual has at least 10 years of work experience within the scope of MSW practice, or 2 years of work experience within the scope of MSW practice plus a master’s degree in social work, human services, social and behavioral sciences, psychology, sociology, or other related degree the Board has approved.

- A BSW applicant must submit evidence of at least 3 years of work experience within the scope of BSW practice, or at least 1 year of work experience within the scope of BSW practice plus a baccalaureate degree in social work, human services, social and behavioral sciences, psychology, sociology, or other related degree the Board has approved.

An application for licensure under the grandfathering provision must be submitted within 2 years of enactment of this Act.

In addition to the grandfather provision, § 3903(c)(3) this Act exempts from licensure individuals who practice social work and are employed by a Delaware state agency or private or non-profit agency, including a hospital, as of the enactment date of this Act. However, an individual who is newly-employed or employed in a new position 5 years after the enactment date of this Act must be licensed under this chapter if the individual provides services as a social worker. “New position” is intended to capture circumstances in which an existing employee applies for different job either with the employee’s current employer or a different employer; “new position” does not apply to an employee’s existing position for which the job description and duties may be modified. The purpose of § 3903(c)(3) is to ensure that an individual who is currently employed in Delaware as a social worker but may not qualify for licensure under this Act is not disqualified from the individual’s current job.

Other exemptions from licensure under this Act include:

- An individual who is licensed in another jurisdiction, provided that the individual has made prior written application to the Board to practice social work in Delaware. This exemption is limited to 30 days per year.
- Clergy, when engaging in activities within the scope of that individual's ministerial duties.
- Performance of assessments, such as basic information collection, informal observations, or screening and referral for eligibility for a program or service.
- Development of service plans not related to a behavioral health diagnosis.
- Participation as a member of a multi-disciplinary team to implement behavioral health services or a treatment plan, if specified conditions are met.

This Act also includes the following:

- Updates to make Chapter 39 consistent with the laws of other Title 24 boards, including amendments to Board membership and duties and disciplinary sanctions.
- Clarification regarding Board members' terms and limits on repeat terms.
- Authorizing the Board to audit licensees' continuing education credits and limit the number of times an applicant may attempt the national exam.
- Clarifications and updates to license reciprocity.
- Extending the amount of time a licensee may put his or her license in inactive status from 1 year to 3 years.
- Removing the requirement of 45 continuing education credit hours to allow the Board to set by regulation the number of required credit hours.
- Limiting the consideration of excessive use or abuse of drugs for disciplinary purposes to only the previous 10 years or current use. Existing law did not include a limit to how far back such use could have occurred to invoke disciplinary action.
- Clarification that, under appropriate circumstances, licenses can be suspended or permanently revoked; removing all references to "temporary revocation."
- Clarification that exceeding the scope of one's license is a ground for sanctions.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Finally, this Act takes effect 1 year after enactment.