

Title 22. EXAMINING BOARDS
Part 34. TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS
Chapter 781. Social Worker Licensure
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Amendment §781.603
Repeal §781.609

Proposed Preamble

The Texas State Board of Social Worker Examiners (board) proposes amendments to §§781.101, 781.102, 781.209, 781.215, 781.217, 781.301-781.304, 781.311, 781.314, 781.402-781.405, 781.409, 781.414, 781.502; 781.505, 781.509, 781.511, 781.512, 781.517 781.603, new 781.419 and the repeal of §781.609 concerning the licensure and regulation of social workers.

BACKGROUND AND PURPOSE

The board proposes amendments and a new rule to correct minor errors, improve the rules readability, and ensure that the rules reflect current legal, policy, and operational considerations. Additionally, the board proposes the repeal of §781.609 to eliminate duplication of language.

SECTION BY SECTION SUMMARY

Amendments to §781.101 are proposed to accurately reflect the restriction on the use of the social worker title in the Social Work Practice Act.

Amendments to §781.102 are proposed to improve the definitions of accredited university, Association of Social Work Boards, clinical social work, confidential information, detrimental to the client, direct practice, direct practice, dual relationship, exploitation, family systems, flagrant, fraud, full-time experience, group supervision, indirect practice, individual supervision, investigator, licensee, part-time experience, psychotherapy, social work practice, supportive counseling, supervision, telepractice, and termination; to delete the definitions of

exploitive behavior, pleading, reciprocity, sexual contact, and sexual exploitation; and, to renumber the definitions accordingly.

Amendments to §781.209 are proposed to clarify the types of committees that may be established by the board.

Amendments to §781.215 are proposed to clarify what is displayed on the license certificate, to add the requirements of a provisional license certificate, and, to reorder and renumber the section accordingly.

The amendments to §781.217 are proposed to change the penalty fee for late renewal to one-fourth of the biennial license renewal fee for late renewals from 1-90 days late; change the penalty fee for late renewal to one-half of the biennial license renewal fee for late renewals from 91-365 days late; eliminate the student loan default reinstatement fee; and renumber the section accordingly.

The amendments to §781.301 are proposed to change the academic requirements for licensure as a Licensed Clinical Social Worker to be consistent with the Occupations Code, Chapter 505; to improve language, to establish a one time window between April 1, 2008 and March 31, 2010 during which LMSW licensees of the board may use clinical supervision which was on file with the board before the board established by rule change effective August 24, 2005 that clinical and non-clinical supervision expired after five years and that after 2010, supervision toward clinical or non-clinical licensure or specialty recognition must have occurred within the previous five calendar years from the date of application; to remove the requirements of the advanced practice specialty recognition from subsection (a) and restore the requirements in subsection (b); to add the requirements for independent non-clinical specialty recognition into subsection (b); to remove language regarding the scope of practice in subsection (b) for placement in §781.402; to remove language regarding the scope of practice in subsections (c), (d), and (e) for modification and placement in §781.402; and to reorder and renumber the section accordingly.

The amendments to §781.302 are proposed to delete provisions allowing licensees to obtain supervision toward licensure without a supervision plan; to improve language, to allow for a social worker to be under more than one supervision plan at the same time; and to reorder and renumber the section accordingly.

The amendments to §781.303 are proposed to improve language; to remove language related to qualifications for independent practice recognition that is proposed to be added to §781.301; to delete language in subsection (a) related to the application process for independent practice recognition since it is duplicated in §781.302; to delete language in subsection (b) related to the initial one-time waiver of the supervised experience requirement that expired August 31, 2007; to remove language in subsection (f) that allowed for an LMSW or LBSW to practice independently until August 31, 2007; to provide that an LMSW or LBSW may practice independently when the LMSW or LBSW holds the independent practice specialty recognition, is under application for the specialty recognition under the waiver of the supervised experience

requirement, or when a supervision plan for independent practice has been approved by the board; and to reorder and renumber the section accordingly.

Amendments to §781.304 are proposed to improve language; to specify that supervisors may supervise only supervisees providing professional services within the supervisor's own competency; to establish the supervisor status renewal period as two years, to be renewed in conjunction with license renewal; to provide a process for surrender of supervisory status; to specify that any month of supervision under a supervision plan is not creditable unless the conditions of supervision specified in this section are met; to forbid supervisors from providing supervision to a social worker who is practicing outside of the scope of the license; to require a supervisor who believes a supervisee is practicing outside the scope of the license to make a report to the board; to remove language that allows for supervision completed before the effective date of the chapter to be evaluated based on the rules that were in effect at the time the supervision plan or verification was submitted to the board; and to reorder and renumber the section accordingly.

The amendment to §781.311 is proposed to allow a temporarily licensed social worker who passes the licensing examination to be considered temporarily licensed until a regular license is issued by the board or the temporary license expires, whichever is first.

The amendments to §781.314 are proposed to improve language and to use updated terminology.

The amendments to §781.402 are proposed to add language regarding the scope of practice removed from §781.301; to improve language; to include Current Procedural Terminology (CPT) Codes among identified diagnostic classification systems that may be used by Licensed Clinical Social Workers in assessment, diagnosis, treatment and other social work practice activities; to specify that a LMSW may provide clinical social work services under a contract with an agency when under a board approved clinical supervision plan; to allow for Licensed Masters Social Workers to diagnose; to remove definitions of independent non-clinical practice and independent clinical practice since the definitions already appear in §781.102; and to reorder and renumber the section accordingly.

The amendments to §781.403 are proposed to improve language; and to add a general standard of practice that social workers ensure that the client or a legally authorized person representing the client has signed a consent for services, when appropriate.

The amendment to §781.404 is proposed to add to the list of items that a social worker shall make known to a prospective client the services that are to be provided.

The amendments to §781.405 are proposed to add a definition of sexual exploitation; and to improve language.

The amendments to §781.409 are proposed to improve language; to clarify the requirement that a social worker provide a written explanation of types of treatment and charges on a bill or

statement to a client even if the bill is paid by a third party; and to delete language that indicated that a social worker is responsible for services rendered when providing approval by signature for services rendered by another individual who may or may not be licensed.

The amendments to §781.414 are proposed to improve language and specify that the board will provide consumer information on its web site or upon request.

The new section §781.419 is proposed to provide that a social worker who is licensed as a sex offender treatment provider by the Council on Sex Offender Treatment is not subject to disciplinary action by the board in relation to the social worker's provision of sex offender treatment; to specify that a social worker who is a sex offender treatment provider and who acts in conformance with the rules, policies, and procedures of the council is not subject to any administrative sanction by the board; and to specify that if the Council on Sex Offender Treatment takes disciplinary action against a social worker who is a sex offender treatment provider, the board may consider the final order imposing such disciplinary action as grounds for disciplinary action by the board.

The amendments to §781.502 are proposed to rename the section; to reflect that licenses are renewed for a two-year term; and to delete language that provided for prorated fees during the transition from renewal terms of one-year to two-years.

The amendments to §781.505 are proposed to improve language; to use the current terms of expire and expiration as opposed to the terms lapse and lapsed; to specify the current process for placing a license on inactive status; and to reactive a license that was placed on inactive status.

The amendment to §781.509 is proposed to improve language.

The amendments to §781.511 are proposed to add the expiration date of a continuing education providers approved status to certificates of completion issued by the provider and to specify that a program offered for continuing education in ethics shall meet the minimum course requirements for an ethics course approved by the board.

The amendments to §781.512 are proposed to improve language.

The amendment to §781.517 is proposed to require that supervisory training courses approved by the board before September 8, 2007 must meet the requirements in §781.511 by August 31, 2008.

The amendments to §781.603 are proposed to clarify which functions in the complaint procedure are performed by department staff; to remove the requirement that the executive director make a sworn statement in order to open an anonymous complaint; to accurately describe the review process and decisions to be made by the executive director regarding referral for investigation and notification of the respondent; to update the complaint procedure; to update the range of information provided to the boards ethics committee regarding the status of open complaints; to update references to timelines; and to reorder and renumber the section accordingly.

Section §781.609 is proposed for repeal because language in current board rule §781.703 provides for appropriate default procedures.

FISCAL NOTE

Charles Horton, Executive Director, has determined that for each year of the first five years the sections are in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Mr. Horton has also determined that there are no anticipated economic costs to small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rules that these entities will not be required to alter their business practices in order to comply with the sections as proposed. There are no anticipated economic costs to persons required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

Mr. Horton has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections is to effectively regulate the practice of social work in Texas, all of which will protect and promote public health, safety, and welfare.

REGULATORY ANALYSIS

The board has determined that this proposal is not a “major environmental rule” as defined by Government Code, §2001.0225. “Major environmental rule” is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment nor reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The board has determined that the proposal does not restrict or limit an owner’s right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Charles Horton, Executive Director, Texas State Board of Social Worker Examiners, Department of State Health Services, 1100 West

49th Street, Austin, Texas 78756 or by email to lsw@dshs.state.tx.us. When e-mailing comments, please indicate “Comments on Proposed Rules” in the e-mail subject line. Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

STATUTORY AUTHORITY

The proposed amendments, repeal, and new sections are authorized by Occupations Code, §505.155, which requires the board to develop policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the executive director and staff of the department; by Occupations Code, §505.201, which authorizes the board to adopt rules necessary to perform the board’s duties, to establish standards of conduct and ethics for license holders, to establish requirements for each type of license issued by the board, and to establish procedures for recognition of independent practice; by Occupations Code, §505.203, which authorizes the board to set fees; by Occupations Code, §505.254, which requires the board to adopt rules concerning an investigation of a complaint filed with the board; by Occupations Code, §505.303, which requires the board to establish a specialty area of clinical social work that is only available to a licensed master social worker who satisfies minimum supervised experience requirements and clinical examination as set by the board; and by Occupations Code, §505.404, which requires the board to establish mandatory continuing education requirements for license holders.

The proposed amendments and new sections affect Occupations Code, Chapter 505.

Section for repeal.

§781.609. Default Orders.

Legend:

Single Underline = Proposed new language.

[Bold Print, and Brackets] = Current language proposed for deletion.

Regular Print = Current language with no change proposed.

No change. = No changes are being considered for the designated subdivision.

Subchapter A. General Provisions.

§781.101. Purpose and Scope.

(a) (No change.)

(b) The Act restricts the use of the titles "social worker," "licensed master social worker," "licensed social worker," "licensed baccalaureate social worker," "licensed clinical social worker" or "social work associate" or any other title that implies licensure or certification in **[professional]** social work **[services]**.

(c) - (e) (No change.)

§781.102. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Accredited colleges or universities--An educational institution that is accredited by an accrediting agency recognized by the Council on Higher Education Accreditation **[Texas Higher Education Coordinating Board]**.

(2) - (6) (No change.)

(7) Association of Social Work Boards (ASWB)—The international **[National]** organization which represents **[representing]** regulatory boards of social work and administers **[Administers]** the national examinations utilized in the assessment for licensure.

(8) - (10) (No change.)

(11) Clinical social work--A specialty within the practice of master social work that requires the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, and/or persons who are adversely affected by social or psychosocial stress or health impairment. The practice of Clinical Social Work requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions, including severe mental illness in adults and serious emotional disturbances in adults, adolescents, and children. Treatment methods include, but are not limited to, the provision of individual, marital, couple, family, and group **[therapy and]** psychotherapy. Clinical social workers are qualified to use the Diagnostic and Statistical Manual of Mental Disorders (DSM), the International Classification of Diseases (ICD), Current Procedural

Terminology (CPT) codes, and other diagnostic classification systems in assessment, diagnosis, and other practice activities.

[(12) Clinical supervision--An interactional professional relationship between a supervisor and a social worker that provides evaluation and direction over the supervisee's practice of clinical social work and promotes continued development of the social worker's knowledge, skills, and abilities to engage in the practice of clinical social work in an ethical and competent manner.]

(12) **[(13)] Confidential information--Individually identifiable information [obtained from a client or records]** relating to a client, including the client's identity, and demographic information **[collected from an individual,]** that relates to the past, present, or future physical or mental health or condition of a client [an individual]; the provision of social work services to a client [an individual]; the past, present, or future payment for the provision of social work services to a client [an individual]; and identifies the client [individual] or with respect to which there is a reasonable basis to believe the information can be used to identify the client [individual] which is not discloseable under applicable law or court rules of evidence. Client information is "confidential" if it is intended to be disclosed to third persons to further the interest of the client in the diagnosis, examination, assessment, evaluation, or treatment, or those reasonably necessary for the transmission of the communication, or those who are participating in the diagnosis, examination, assessment, evaluation, or treatment under the direction of the social worker [professional], including members of the client's [patient's] family.

(13) **[(14)] Completed application--The official social work application form, fees and all supporting documentation which meets the criteria set out in this title (relating to Required Application Materials).**

(14) **[(15)] Conditions of exchange--The setting of rates of reimbursement or fee structure and business rules or policies involving issues such as cancellation of appointments, office hours, and management of insurance claims.**

(15) **[(16)] Contested case--A proceeding in accordance with the APA and this chapter, including, but not limited to, rule enforcement and licensing, in which the legal rights, duties, or privileges of a party are to be determined by the board after an opportunity for an adjudicative hearing.**

(16) **[(17)] Counseling--A method used by social workers to assist individuals, couples, families or groups in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.**

(17) **[(18)] Consultation--To provide advice, opinions and to confer with other professionals regarding social work practice.**

(18) **[(19)] Continuing education--Formal or informal education or trainings, which are oriented to maintain, improve or enhance social work practice.**

(19) [(20)] Council on Social Work Education (CSWE)--The national organization that accredits social work education schools and programs.

(20) [(21)] Department--Department of State Health Services.

(21) [(22)] Detrimental to the client--An act or omission by a social worker that damages [of a professional responsibility that is damaging to] the physical, mental, [or] financial, or societal status of a [the] client.

(22) [(23)] Direct practice--The provision of social work services to clients in which goals are reached through personal contact and immediate influence. [services, research, system linkage, system development, maintenance and enhancement of social and psychosocial functioning of clients.]

(23) [(24)] Dual relationship--Dual or multiple relationships occur when social workers interact with [relate to] clients in more than one capacity, whether it be before, during or after the professional, social, or business relationship. Dual [or multiple] relationships can occur simultaneously or consecutively.

(24) [(25)] Endorsement--The process whereby the board reviews requirements for licensure completed while under the jurisdiction of a different regulatory board from another state. The board may accept, deny or grant partial credit for requirements completed in a different jurisdiction.

(25) [(26)] Examination--A standardized test or examination of social work knowledge, skills and abilities, which has been approved by the board.

(26) [(27)] Exploitation--The use of a pattern, practice or scheme of conduct that can reasonably be construed as being primarily for the purposes of meeting the needs or being to the benefit of the licensee rather than in the best interest of the client or at the expense of another practitioner. An unequal balance is inherent in the client/social worker [professional] relationship [and may be present in the professional/professional relationship]. The [To] use of this power imbalance for the personal benefit of the social worker [professional] at the expense of the client or another practitioner [professional] is exploitation. Exploitation may take financial, business, emotional, sexual, verbal, religious and/or relational forms.

[(28) Exploitive behavior--A pattern, practice or scheme of conduct that can reasonably be construed as being primarily for the purposes of meeting the needs or being to the benefit of the social worker rather than in the best interest of the client or at the expense of another professional. Exploitation may take financial, business, emotional, sexual, verbal, religious and/or relational forms.]

(27) [(29)] Family systems--An [open,] on-going [, goal-seeking,] self-regulating[,] social system. [Certain features such as its unique structuring of gender, race, nationality and generation set it apart from other social systems. Each individual family system is shaped by its own particular structural features (size, complexity, composition, life stage),

the psychobiological characteristics of its individual members (age, race, nationality, gender, fertility, sexual orientation, health and temperament) and its socio-cultural and historic position in its larger environment.]

(28) [(30)] Formal hearing--A hearing or proceeding in accordance with this chapter, including a contested case as defined in this section to address the issues of a contested case.

(29) [(31)] Flagrant--Conspicuously [**Obviously**] inconsistent with what is right or proper as to appear to be a flouting of law or morality.

(30) [(32)] Fraud--Any misrepresentation or omission by a social worker related to **[professional]** qualifications, services, or related activities or information **[that benefits the social worker]**.

(31) [(33)] Full-time experience--Providing social [**Social**] work services [totaling] thirty [30] or more hours per week.

(32) [(34)] Group supervision for licensure--Supervision provided to [**Supervision that involves**] a minimum of two and no more than six supervisees in a designated supervision session [**supervision hour**].

(33) [(35)] Health care professional--A licensee or any other person licensed, certified, or registered by the State of Texas in a health related profession.

(34) [(36)] Home study--A formal written evaluation or social study to determine what is the best interest of a minor child or other dependent person.

(35) [(37)] Independent clinical practice--The provision of clinical social work in independent practice in which the social worker assumes responsibility and accountability for the nature and quality of the services provided to clients, pro bono or in exchange for direct payment or third party reimbursement.

(36) [(38)] Independent non-clinical practice--The practice of non-clinical social work outside the jurisdiction of an organizational setting, after completion of all applicable supervision requirements, in which the social worker assumes responsibility and accountability for the nature and quality of the services provided to clients, pro bono or in exchange for direct payment or third party reimbursement.

(37) [(39)] Independent practice--The practice of social work services outside the jurisdiction of an organizational setting, after completion of all applicable supervision requirements, in which the social worker assumes responsibility and accountability for the nature and quality of the services provided to clients, pro bono or in exchange for direct payment or third party reimbursement.

(38) [(40)] Indirect practice--Providing social work services [**Work on behalf of the client**] utilizing negotiation, education, advocacy, administration, research, policy development

and resource location that does not have **[involve]** immediate or face-to-face **[personal]** contact with the clients being served.

(39) **[(41)]** Individual supervision for licensure--Supervision provided to **[of]** one supervisee during the designated supervision session.

(40) **[(42)]** Investigator--An employee or contractor of the Department **[A professional]** utilized by the board in the investigation of allegations of professional misconduct.

(41) **[(43)]** LBSW--Licensed Baccalaureate Social Worker.

(42) **[(44)]** LCSW--Licensed Clinical Social Worker.

(43) **[(45)]** License--A regular, provisional, or temporary license or recognition issued by the board unless the content of the rule indicates otherwise.

(44) **[(46)]** Licensee--A person licensed **[or recognized]** by the board to practice **[perform professional]** social work **[practice]**.

(45) **[(47)]** LMSW--Licensed Master Social Worker.

(46) **[(48)]** LMSW-AP--Licensed master social worker-advanced practitioner.

(47) **[(49)]** Non-clinical social work--The areas of social work practice that include community organization, planning, administration, teaching, research, administrative supervision, non-clinical consultation and other related social work activities.

(48) **[(50)]** Part-time experience--Social work services provided for fewer **[totaling less]** than thirty **[30]** hours per week.

(49) **[(51)]** Party--Each person, governmental agency, or officer or employee of a governmental agency named by the ALJ as having a justiciable interest in the matter being considered, or any person, governmental agency, or officer or employee of a governmental agency meeting the requirements of a party as prescribed by applicable law.

(50) **[(52)]** Persistently--Existing for a long or longer than usual time or continuously.

(51) **[(53)]** Person--An individual, corporation, partnership, or other legal entity.

[(54) Pleading--Any written allegation filed by a party concerning its claim or position.]

(52) **[(55)]** Psychotherapy--Treatment **[The use of treatment methods]** utilizing a specialized, formal interaction with **[between a clinical social worker and]** an individual, couple, family, or group by a social worker in which a therapeutic relationship is established, maintained and sustained to understand intrapersonal, interpersonal and psychosocial dynamics,

and with a [the] diagnosis and treatment of mental, emotional, and behavioral disorders, conditions and addictions.

[(56) Reciprocity--The granting of an official license based on the current status of licensure in a different jurisdiction. Reciprocity is granted based on the formal written agreement between the board and regulatory body in the other jurisdiction.]

(53) [(57)] Recognition--Authorization from the board to engage in the independent or specialty practice of social work services.

(54) [(58)] Rules--Provisions in this chapter specifying the implementation of statute and operations of the board and individuals affected by the Act.

[(59) Sexual contact--Any touching or behavior that can be construed as sexual in nature.]

[(60) Sexual exploitation--A pattern, practice or scheme of exploitative behavior, which may include sexual contact.]

(55) [(61)] Social Work Case Management--The use of a biopsychosocial perspective to assess, evaluate, implement, monitor and advocate for services on behalf of and in collaboration with the identified client.

(56) [(62)] Social worker--A person licensed under the Act.

(57) [(63)] Social work practice--Services provided **[and actions performed]** as an employee, independent practitioner, consultant, or volunteer for compensation or pro bono to effect changes in human behavior, a person's emotional responses, interpersonal relationships, and the social conditions of individuals, families, groups, organizations, and communities. The **[For the purpose of this definition, the]** practice of social work is guided by specialized **[special]** knowledge, acquired through formal social work education development and behavior within the context of the social environment, and methods to enhance the functioning of individuals, families, groups, communities, and social welfare organizations. Social work practice involves the disciplined application of social work values, principles, and methods, including, but not limited to, psychotherapy, marriage and family therapy, couples therapy, group therapy, mediation, case management, supervision of social work services and programs, counseling, assessment, diagnosis, treatment, and evaluation. Social work practice may also be referred to as social work services, **[of]** social welfare policies and services, social welfare systems and resources, and human services.

(58) [(64)] Supportive counseling--The methods used **[by social worker]** to help individuals create and maintain adaptive patterns. Such methods may include, but are not limited to, building community resources and networks, linking clients with services and resources, educating clients and informing the public, helping clients identify and build strengths, leading community groups, and providing reassurance and support. Supportive counseling **[This type of social work]** is not considered clinical social work.

(59) [(65)] Supervisor, board approved--A person meeting the requirements set out in §781.302 of this title (relating to Clinical Supervision for LCSW and Non-Clinical Supervision for LMSW-AP and Independent Practice Recognition), to supervise a licensee towards the LCSW, LMSW-AP or Independent Practice recognition.

(60) [(66)] Supervision--Supervision includes: **[The professional interaction between a supervisor and a social worker in which the supervisor evaluates and directs the services provided by the social worker and promotes continued development of the social worker's knowledge, skills and abilities to provide social work services in an ethical and competent manner.]**

(A) administrative or work related supervision of an employee, contractor or volunteer that is not related to qualification for licensure, practice recognition, a disciplinary order or a condition to new or continued licensure;

(B) clinical supervision of a Licensed Masters Social Worker providing clinical services by a Licensed Professional Counselor, Licensed Psychologist, Licensed Marriage and Family Therapist, Licensed Clinical Social Worker or Psychiatrist that is not related to qualification for licensure, practice recognition, a disciplinary order or a condition to new or continued licensure.;

(C) clinical supervision of a Licensed Masters Social Worker providing clinical services by a Licensed Clinical Social Worker who is recognized by the board as a supervisor toward qualification for practice recognition;

(D) non-clinical supervision of a Licensed Masters Social Worker or Licensed Baccalaureate Social Worker providing non-clinical social work services by a licensed social worker who is recognized by the board as a supervisor toward qualification for practice recognition;

(E) non-clinical supervision of a probationary Licensed Masters Social Worker or Licensed Baccalaureate Social Worker providing clinical services by a licensed social worker who is recognized by the board as a supervisor toward licensure under the AMEC program; or

(F) supervision by an approved supervisor pursuant to a disciplinary order or as a condition of new or continued licensure.

(61) [(67)] Supervision hour--A supervision hour is a minimum of 60 minutes in length.

(62) [(68)] Telepractice--Providing social work services wherein the client and the practitioner are not in the same physical location **[Interactive service delivery where the client resides in one location and the professional in another].**

(63) [(69)] Termination--Ending social work services with a client **[The end of professional services, meetings, and billing for services].**

(64) [(70)] Texas Open Meetings Act--Government Code, Chapter 551.

(65) [(71)] Texas Public Information Act--Government Code, Chapter 552.

(66) [(72)] Waiver--The suspension of educational, professional, and/or examination requirements for applicants who meet the criteria for licensure under special conditions based on appeal to the board.

Subchapter B. The Board.

§781.209. Committees of the Board.

(a) The board and/or the chair may establish board committees, advisory committees and task forces **[deemed necessary to carry out board responsibilities]**.

(b) The board chair shall appoint members of the board to serve on board committees and shall appoint the board committee chairs. The board chair shall assign board members and/or the executive director to serve on advisory committees and task forces. The board chair may invite others to serve on advisory committees and task forces.

(c) - (g) (No change.)

§781.215. The License.

(a) The board shall prepare and provide to each licensee a license certificate, which contains the licensee's name, license granted and license number. The license certificate will include any specialty recognition or supervisory status granted by the board to the licensee. **[License certificates will indicate the professional social work title, whether LBSW, LMSW, LMSW-AP or LCSW, granted to applicants who have met all of the qualifications established by the board. The license certificate will also indicate the date that the license expires, unless it is renewed.]** The board shall have a method to indicate the **[new]** expiration date of a new license and a license which has been renewed. **[The license certificate will also include any specialty recognition or supervisory status, if applicable.]**

(b) Regular licenses shall be signed by the board chairperson and **[executive director and]** be affixed with the seal of the State of Texas **[board]**.

(c) Temporary license certificates shall include an expiration date. A temporary license expires on the expiration date, the date that the first licensing examination is failed, or, if the first licensing examination is passed, the date that the board issues a regular license certificate, whichever is first. **[(c) Temporary and provisional licenses shall be printed on board letterhead and signed by the executive director.]**

(d) Provisional license certificates shall include an expiration date. A provisional license expires on the expiration date or the date that the board issues a regular license certificate, whichever is first.

(e) [(d)] All licenses issued by the board remain the property of the board and must be surrendered to the board on demand. The board maintains jurisdiction over a licensee until the license is returned to the board.

§781.217. Fees.

(a) The following are the board's fees:

(1) - (7) (No change.)

(8) fee for late renewal:

(A) 1-90 days--renewal fee plus fee equal to one-fourth of the renewal fee for an unexpired license (LMSW or LBSW fee = \$20; LCSW or LMSW-AP fee = \$25) [one-half the current contracted examination fee rounded to the nearest dollar amount]; or

(B) 91 days, but less than one year--renewal fee plus fee equal to one-half of the renewal fee for an unexpired license (LMSW or LBSW fee = \$40; LCSW or LMSW-AP fee = \$50) [the current contracted examination fee rounded to the nearest dollar amount];

(9) - (14) No Change.

[(15) student loan default reinstatement fee--\$35;]

(15) [(16)] continuing education provider application fee--\$50 annually;

(16) [(17)] delinquent child support administrative fee--\$35;

(17) [(18)] legislatively mandated fees per licensee for the operation of the Office of Patient Protection per application and renewal as legislatively established;

(18) [(19)] legislatively mandated fees per licensee for the boards participation in the Texas On-line per application and renewal as legislatively established;

(19) [(20)] board approved supervisor fee--\$25 annually;

(20) [(21)] AMEC participant administrative fee--Fee equal to the current contract examination fee;

(21) [(22)] Petition for re-examination fee--\$20 per petition; and

(22) [(23)] Temporary license fee--\$30.

(b) - (d) (No change.)

Subchapter C. Licenses and Licensing Process.

§781.301. Qualifications for Licensure.

(a) Licensure. The following education and experience is required for licensure as designated [the specified licenses and specialty recognitions]. [:]

(1) Licensed Clinical Social Worker (LCSW).

(A) Has been conferred a doctoral degree in social work from an accredited university acceptable to the board or master's degree in social work from a CSWE accredited social work program [Must be licensed as an LMSW].

(B) Has had [Obtain] 3000 hours of board-approved [Board approved] supervised professional full-time clinical employment experience over a minimum two-year period, but within a maximum four-year period or its equivalent if the experience was completed in another state.

(C) Has had [Complete] a minimum of 100 hours of face-to-face supervision, over the course of the 3000 hours of full-time experience, with a board-approved supervisor. Supervised experience must have occurred within the five previous calendar years occurring from the date of application. If supervision was completed in another state, the social worker must have the supervision verified by the licensing board in the other state.

(D) Has made a passing [Passing] score on the clinical exam administered nationally by ASWB.

(E) From April 1, 2008 until March 31, 2010, a LMSW licensed by the board who has 24 months of verified clinical supervision on file before the effective date of this rule with the board is considered to have met the requirements of subparagraphs (B) and (C) of this paragraph.

(2) Licensed Master Social Worker (LMSW).

(A) Has been conferred a [A] doctoral degree in social work from an accredited university acceptable to the board or master's degree in social work from a CSWE accredited social work program.

(B) Has made a passing [Passing] score on the intermediate or master's exam administered nationally by ASWB.

[(3) Licensed Master Social Worker-Advanced Practitioner (LMSW-AP).]

[(A) Must be licensed as an LMSW.]

[(B) Obtain 3000 hours of Board approved supervised professional full-time non-clinical employment experience over a minimum two-year period, but within a maximum four-year period or its equivalent if the experience was completed in another state.]

[(C) Complete a minimum of 100 hours of face-to-face supervision, over the course of the 3000 hours of full-time experience, with a board-approved supervisor. Supervised experience must have occurred within the five previous calendar years occurring from the date of application.]

(D) Passing score on the advanced or advanced generalist examination administered nationally by ASWB.]

(3) [(4)] Licensed Baccalaureate Social Worker (LBSW).

(A) Has been conferred a [A] baccalaureate degree in social work from a CSWE accredited social work program.

(B) Has made a passing [Passing] score on the basic or Bachelors exam administered nationally by ASWB.

(b) Specialty Recognition. The following education and experience is required for specialty recognitions as designated.

(1) Licensed Master Social Worker-Advanced Practitioner (LMSW-AP).

(A) Is currently licensed in the State of Texas or meets the current requirements for licensure as a LMSW.

(B) While fully licensed as a social worker, has had 3000 hours of board-approved supervised professional full-time non-clinical social work experience over a minimum two-year period, but within a maximum four-year period or its equivalent if the experience was completed in another state.

(C) Has had a minimum of 100 hours of face-to-face supervision, over the course of the 3000 hours of full-time experience, with a board-approved supervisor. Supervised experience must have occurred within the five previous calendar years occurring from the date of application. If supervision was completed in another state, the social worker must have the supervision verified by the licensing board in the other state.

(D) Has made a passing score on the advanced or advanced generalist examination administered nationally by ASWB.

(2) Independent Non-clinical Practice.

(A) Is currently licensed in the State of Texas as a LBSW or LMSW or meets the current requirements for licensure as a LBSW or LMSW.

(B) While fully licensed as a social worker has had 3000 hours of board-approved supervised full-time social work experience over a minimum two-year period, but within a maximum four-year period or its equivalent if the experience was completed in another state.

(C) Has had a minimum of 100 hours of face-to-face supervision, over the course of the 3000 hours of full-time experience, with a board-approved supervisor. Supervised experience must have occurred within the five previous calendar years occurring from the date of application. If supervision was completed in another state, the social worker must have the supervision verified by the licensing board in the other state.

[(b) Only a person who is licensed and has been recognized by the board as follows is qualified to provide clinical and non-clinical social work services in employment or independent practice settings.]

[(1) A LCSW may provide any clinical or non-clinical social work services in either an employment or independent practice setting. A LCSW may work under contract, bill directly for services, and bill third parties for reimbursements for services.]

[(2) A LMSW-AP may provide any non-clinical social work services in either an employment or an independent practice setting. A LMSW-AP may work under contract, bill directly for services, and bill third parties for reimbursements for services.]

[(3) A LBSW or LMSW recognized for independent practice may provide any non-clinical social work services in either an employment or an independent practice setting. A LBSW or LMSW recognized for independent practice may work under contract, bill directly for services, and bill third parties for reimbursements for services.]

[(4) A LBSW or LMSW recognized for independent practice and a LMSW-AP must restrict his or her independent practice to the provision of non-clinical social work services.]

[(c) After August 31, 2007, a licensee that had not submitted an application for Independent Practice Recognition and an application for waiver of supervised experience requirements, along with the appropriate fees and supporting documentation and whose application is still pending must not engage in any independent practice that falls within the definition of social work practice in §781.102 of this title (relating to Definitions) without being licensed and recognized by the board unless the person is licensed in another profession and acting solely within the scope of that license. If engaged in professional practice under another license, the person may not use the titles "licensed clinical social worker," "licensed master social worker," "licensed social worker," "licensed baccalaureate social worker," or "social work associate" or any other title or initials that

states or implies licensure or certification in social work unless one holds the appropriate license or independent practice recognition.]

[(d) After August 31, 2007, a LBSW or LMSW who is not recognized for independent practice may not provide direct social work services to clients from a location that she or he owns or leases and that is not owned or leased by an employer or other legal entity with responsibility for the client. This does not preclude in home services such as in home health care or the use of telephones or other electronic media to provide services in an emergency.]

[(e) After August 31, 2007, a LBSW or LMSW who is not recognized for independent practice [or is not exempt under subsection (c) of this section, may only practice for remuneration in a direct employment or agency setting and can not work under contract, bill directly to patients or to third party payers, unless the LBSW or LMSW is under a formal supervision plan approved by the board.]

(c) [(f)] Applicants for a license must complete the board's jurisprudence examination and submit proof of completion at the time of application. The jurisprudence examination must have been completed no more than six months prior to the date of application.

§781.302. Clinical Supervision for LCSW and Non-Clinical Supervision for LMSW-AP and Independent Practice Recognition.

(a) (No change.)

(b) An LMSW who plans to apply for the LCSW **[or LMSW-AP]** must:

(1) submit a clinical supervisory plan to the board for approval by the appropriate committee of the board or executive director/designee within 30 days of initiating supervision [. **If the LMSW fails to submit a supervisory plan, then the LMSW's supervisor must provide to the supervisee who in turn will need to submit to the board documentation regarding dates, times and summary of all supervisory sessions at the time the LMSW submits a clinical/non-clinical supervision verification form**];

(2) submit a current job description from the agency in which the social worker is employed with a verification of authenticity from the agency director or their designee on agency letterhead. In order for a plan to be approved, the position description or other relevant documentation must demonstrate that the duties of the position are clinical as defined in this chapter;

(3) submit a supervision verification form to the board for approval within 30 days of the end of each supervisory plan with each supervisor. If the supervisor does not recommend the supervisee for eligibility to examine for [recognition as an AP or] LCSW, the supervisor must indicate such on the clinical supervision verification form and provide specific reasons for not recommending the supervisee. The board may consider the supervisor's

reservations in its evaluation of acceptance of supervision verification submitted by [qualifications of] the supervisee; [and]

(4) submit a new supervisory plan within 30 days of changing supervisors; and [Only one supervisory plan may be in place at any time.]

(5) submit an application for upgrade of their licensure to Licensed Clinical Social Worker.

(c) An LMSW who plans to apply for the advanced practice recognition must:

(1) submit a non-clinical supervisory plan to the board for approval by the appropriate committee of the board or executive director/designee within 30 days of initiating supervision;

(2) submit a current job description from the agency in which the social worker is employed with a verification of authenticity from the agency director or their designee on agency letterhead. In order for a plan to be approved, the position description must demonstrate that the duties of the position are social work;

(3) submit a supervision verification form to the board for approval within 30 days of the end of each supervisory plan with each supervisor. If the supervisor does not recommend the supervisee for eligibility to examine for advanced practice recognition, the supervisor must indicate such on the non-clinical supervision verification form and provide specific reasons for not recommending the supervisee. The board may consider the supervisor's reservations in its evaluation of acceptance of supervision verification submitted by the supervisee;

(4) submit a new supervisory plan within 30 days of changing supervisors; and

(5) upon completion and submission of documentation of the required non-clinical supervision the LMSW must apply for upgrade of their licensure to advanced practice recognition.

(d) [(c)] A LBSW or an LMSW who plans to apply for the Independent Practice Recognition must:

(1) submit a supervisory plan to the board for approval by the appropriate committee of the board or executive director/designee within 30 days of initiating supervision[.] [If the LBSW or LMSW fails to submit a supervisory plan, then the supervisor for the LBSW or LMSW must provide to the supervisee who in turn will need to submit to the board documentation regarding dates, times and summary of all supervisory sessions at the time the LMSW submits a non-clinical supervision verification form];

(2) submit a current job description from the agency in which the social worker is employed with a verification of authenticity from the agency director or their designee on agency letterhead or submit a copy of the contract or appointment under which the LBSW or LMSW

intends to work, along with a statement from their potential supervisor that he or she has reviewed the contract and is qualified to supervise the LBSW or LMSW in the setting;

(3) submit a supervision verification form to the board within 30 days of the end of each supervisory plan with each supervisor. If the supervisor does not recommend the supervisee for independent practice recognition, the supervisor must provide specific reasons for not recommending the supervisee. The board may consider the supervisor's reservations in its evaluation of qualifications of the supervisee; and

(4) submit a new supervisory plan within 30 days of changing supervisors. Only one supervisory plan may be in place at any time.

(e) [(d)] A licensee who is required to be supervised as a condition of initial or continued licensure must:

(1) submit a supervisory plan to the board for approval by the appropriate committee of the board or executive director/designee within 30 days of initiating supervision;

(2) submit a current job description from the agency in which the social worker is employed with a verification of authenticity from the agency director or their designee on agency letterhead or submit a copy of the contract or appointment under which the licensee intends to work, along with a statement from their potential supervisor that he or she has reviewed the contract and is qualified to supervise the licensee in the setting;

(3) ensure that their supervisor submits reports to the board at the schedule determined by the board. In each report, the supervisor must report on the status of the supervisee's performance, adherence to statutes and rules, address any special circumstances that led to the imposition of supervision, and recommend whether the supervisee should continue licensure. If the supervisor does not recommend the supervisee for continued licensure, the supervisor must provide specific reasons for not recommending the supervisee. The board may consider the supervisor's reservations in its evaluation of qualifications of the supervisee; and

(4) notify the board immediately if there is a break in the supervisory relationship and submit a new supervisory plan within 30 days of the break. Only one supervisory plan may be in place at any time.

(f) [(e)] A licensee who is required to be supervised as a result of disciplinary action must:

(1) submit a supervisory plan to the board for approval by the appropriate committee of the board or executive director/designee within 30 days of initiating supervision;

(2) submit a current job description from the agency in which the social worker is employed with a verification of authenticity from the agency director or their designee on agency letterhead or submit a copy of the contract or appointment under which the licensee intends to

work, along with a statement from their potential supervisor that he or she has reviewed the contract and is qualified to supervise the licensee in the setting;

(3) ensure that their supervisor submits reports to the board at the schedule determined by the board. In each report, the supervisor must report on the status of the supervisee's performance, adherence to statutes and rules, address any special circumstances that led to the imposition of supervision, and recommend whether the supervisee should continue licensure. If the supervisor does not recommend the supervisee for continued licensure, the supervisor must provide specific reasons for not recommending the supervisee. The board may consider the supervisor's reservations in its evaluation of qualifications of the supervisee; and

(4) notify the board immediately if there is a break in the supervisory relationship and submit a new supervisory plan within 30 days of the break. Only one supervisory plan may be in place at any time.

(g) [(f)] A LBSW or an LMSW who has been approved for a probationary license under supervision while participating in the AMEC program must follow the application and supervision requirements in §781.313 of this title (relating to Alternate Method of Examining Competency).

§781.303. Independent Practice Recognition (Non-Clinical).

(a) A LBSW or LMSW who seeks to obtain board approval for the recognition of independent non-clinical practice shall meet requirements and parameters set by the board in §781.301 of this title (relating to Qualifications for Licensure).

[(1) To qualify for the recognition of independent practice, as a LBSW, an individual, after licensure, shall obtain 3000 hours of board approved supervised full-time experience over a minimum two-year period, but within a maximum four-year period or its equivalent if the experience was completed in another state. Supervised experience must have occurred within the five previous calendar years occurring from the date of application.]

[(2) To qualify for the recognition of independent practice, as a LMSW, an individual, after licensure, shall obtain 3000 hours of board approved supervised full-time experience over a minimum two-year period, but within a maximum four-year period or its equivalent if the experience was completed in another state. Supervised experience must have occurred within the five previous calendar years occurring from the date of application.]

[(3) To qualify for independent practice the licensee must complete a minimum of 100 hours of face-to-face supervision, over the course of the 3000 hours of full-time experience, with a board approved supervisor. A licensee who plans to apply for independent practice recognition shall:]

[(A) submit a supervisory plan to the board for approval by the appropriate committee of the board or executive director within 30 days of initiating supervision. If the licensee fails to submit a supervisory plan, then the licensee will need to submit documentation regarding dates, times and summary of all supervisory sessions at the time the licensee makes application for the upgrade.]

[(B) submit a current job description from the agency the social worker is employed in with a verification of authenticity from the agency director or their designee on agency letterhead.]

[(C) submit a supervision verification form to the board within 30 days of the end of each supervisory plan with each supervisor. If the supervisor does not recommend the supervisee for recognition as an independent practice, the supervisor must provide specific reasons for not recommending the supervisee. The board may consider the supervisor's reservations in its evaluation of qualifications of the supervisee.]

[(D) submit a new supervisory plan within 30 days of changing supervisors.]

(b) [(E)] An individual providing supervision to a LBSW shall be a LBSW recognized for independent non-clinical practice, LMSW recognized for independent non-clinical practice, LMSW-AP or LCSW. An individual providing supervision to a LMSW shall be a LMSW recognized for independent non-clinical practice, LMSW-AP or LCSW. In addition to the required licensure, the supervisor shall be board-approved and have attained the recognition of independent practice.]

(c) [(4)] A person who has obtained only the temporary license may not begin the supervision process until the issuance of the regular license.

(d) [(5)] The board may use the twenty common law factors developed by the Internal Revenue Service (IRS) as part of their determination process regarding whether a worker is an independent contractor or an employee.

- (1) No instructions to accomplish a job.
- (2) No training by the hiring company.
- (3) Others can be hired by the independent contractor (sub-contracting).
- (4) Independent contractor's work is not essential to the company's success or continuation.
- (5) No time clock.
- (6) No permanent relationship between the contractor and company.

- (7) Independent contractors control their own workers.
- (8) Independent contractor should have enough time available to pursue other jobs.
- (9) Independent contractor determines location of work.
- (10) Independent contractor determines order of work.
- (11) No interim reports.
- (12) No hourly pay.
- (13) Independent contractor often works for multiple firms.
- (14) Independent contractor is often responsible for own business expenses.
- (15) Own tools.
- (16) Significant investment.
- (17) Services available to the public by having an office and assistants; having business signs; having a business license; listing their services in a business directory; or advertising their services.
- (18) Profit or loss possibilities.
- (19) Can't be fired.
- (20) No compensation if the job isn't done.

[(b) A LBSW or LMSW who seeks to obtain a waiver of the supervision and experience requirement for independent practice recognition as set forth by the board in subsection (a)(1) - (3) of this section must submit an application for licensure/upgrade/specialty recognition and the Special Application For Waiver of Supervision and Experience Requirements, along with required documentation and the application fees no later than August 31, 2007. An application for waiver will be evaluated and either approved or denied. No partial credit will be given toward the supervised experience requirement, if an application for the waiver is denied. In order to be granted the waiver, the LBSW or LMSW must fully meet the following requirements and parameters set by the board:]

[(1) two years full time (paid or voluntary) social work experience while fully licensed as a social worker under the supervision of a licensed social worker (LCSW, LMSW-AP, LMSW, LBSW);]

[(2) three years full time (paid or voluntary) social work experience while fully licensed as a social worker under the supervision of a licensed mental health professional (LCSW, LMSW-AP, LMSW, LBSW, LMFT, LPC, LCDC, Psychologist, Psychiatrist, Psychiatric Nurse or other mental health professional accepted by the board);]

[(3) four years full time (paid or voluntary) social work experience while fully licensed as a social worker in an agency setting with or without the supervision of a licensed mental health professional; or]

[(4) four years full time (paid or voluntary) social work experience while fully licensed as a social worker without supervision in a setting that meets the criteria in subsection (a)(5) of this section.]

[(c) An applicant may appeal staff decision regarding their qualifications toward the waiver to the appropriate board committee within 30 days of receipt of staff decision. The decision of the board committee is final.]

(e) A LBSW or LMSW who plans to apply for the recognition of non-clinical independent practice shall follow procedures set out in §781.302 of this title (relating to Clinical Supervision for LCSW and Non-Clinical Supervision for LMSW-AP and Independent Practice Recognition).

(f) [(d)] A LBSW or LMSW [who applies for the independent practice recognition and the waiver of experience requirements before August 31, 2007, must cease and desist independent practice immediately if his or her application for the waiver of the supervised experience requirement is finally denied. An LBSW or LMSW whose application has been denied] may practice independently when the LMSW or LBSW holds the independent practice specialty recognition, is under application for the specialty recognition under the waiver of the supervised experience requirement, or when under a supervision plan for independent practice that has been approved by the board.

§781.304. Recognition as a Board-Approved [Board Approved] Supervisor and the Supervision Process. A person who wishes to be a board approved supervisor must file an application, and pay the applicable fee.

(1) A board-approved [board approved] supervisor must:

(A) be licensed as a LBSW, LMSW, LCSW or be recognized as an Advanced Practitioner, (LMSW-AP) [LMSW-AP] in good standing or hold the equivalent social work license **[or certification]** in another state;

(B) supervise only supervisees providing professional services within the supervisor's own competency;

(C) [(B)] take professional responsibility for the social work services provided within the supervisory plan;

(D) [(C)] have completed a supervisor's training program acceptable to the board;

(E) [(D)] currently be engaged in the practice of social work and self-identified as a social worker;

(F) [(E)] submit the required documentation and fee to the board for approval;

(G) [(F)] pay the annual board-approved **[Board Approved]** Supervisor fee as listed in §781.217 of this title (relating to Fees); and

(H) [(G)] when approved as a supervisor by the board, the licensees may perform supervisory functions indicated:

(i) a LCSW may supervise clinical experience toward the LCSW license, non-clinical **[Non-clinical]** experience toward the Advanced Practitioner specialty recognition **[Practice]**, non-clinical experience toward the Independent Practice Recognition (non-clinical), a licensee under probationary initial or continued licensure, board ordered probated suspension, probationary license holders under the AMEC program;

(ii) an LMSW-AP may supervise non-clinical experience toward the Advanced Practitioner specialty recognition **[Practice]**, non-clinical experience toward the Independent Practice Recognition (non-clinical), a licensee under probationary initial or continued licensure, board ordered probated suspension, probationary license holders under the AMEC program;

(iii) an LMSW with the Independent Practice Recognition (non-clinical) may supervise non-clinical experience toward the Independent Practice Recognition (non-clinical), a licensee under probationary initial or continued licensure, board ordered probated suspension, probationary license holders under the AMEC program;

(iv) an LMSW who does not hold the independent practice recognition may only supervise probationary license holders under the AMEC program;

(v) a LBSW with the Independent Practice Recognition may supervise a LBSW's non-clinical experience toward the Independent Practice Recognition (non-clinical), a LBSW under probationary initial or continued licensure, board ordered probated suspension, probationary LBSW license holders under the AMEC program; or

(vi) a LBSW who does not hold the independent practice recognition may only supervise probationary LBSW license holders under the AMEC program.

(2) On receipt of the application to be a board approved supervisor, fee and verification of qualifications, the board will issue a letter notifying the licensee of approval as a board approved supervisor.

(3) On receipt of the approved supervisor fee, the board will issue a letter certifying that the individual is an approved supervisor. **[A licensee who is approved as a supervisor remains approved as a supervisor until the licensee requests to be removed as a supervisor.]**

(4) The [An] approved supervisor must renew the [their] approved supervisor status in conjunction with the biennial license renewal [annually]. The [An] approved supervisor may surrender supervisory status by documenting the choice on the appropriate board renewal form and subtracting the supervisory renewal fee from the renewal payment. If a licensee who has surrendered supervisory status desires to regain supervisory status, the licensee [who fails to renew their approved supervisor status] must reapply and meet the current requirements for approved supervisor status.

(5) A supervisor must maintain the qualifications described in paragraph (1) of this section while he or she is providing supervision.

(6) Supervisory sessions may be in one-on-one sessions or in a combination of individual and group sessions.

(A) There can be no more than six individuals in a supervision group.

(B) There may be:

(i) no fewer than four hours of supervision shall occur each calendar month;

(ii) no fewer than two supervisory sessions shall occur each month;

(iii) each supervisory session shall be at least one hour in duration;

(iv) no more than 10 hours of supervision is allowed during any calendar month.

(7) A calendar month is creditable only if the supervision began no later than the first work day of the month and ended no sooner than the last calendar day of the month. Any month of supervision is not creditable unless the conditions listed in paragraph (6) of this section have been met.

(8) Supervision must be face-to-face meetings between the supervisor and supervisee unless the executive director of the board or a committee of the board has granted an exception allowing an alternate form of supervision **[due to geographical difficulties or physical disabilities]**. If an alternate form of supervision is approved, limits may be set on the amount of alternate supervision to assure sufficient interaction between the supervisor and supervisee.

(9) Supervision must extend over a full 3000 hours.

(10) A social worker may contract for supervision with written approval of the employing agency. A copy of the approval must accompany the supervisory plan submitted to the board.

(11) A board-approved supervisor may not charge or collect a fee or anything of value from his or her employee or contract employee for the supervision services provided to the employee or contract employee.

(12) Before entering into a supervisory agreement, the [The] supervisor must be aware of [responsible for establishing] all conditions of exchange with the clients served by her or his supervisee. The supervisor must not provide supervision if the social worker is practicing outside the authorized scope of the license. If the supervisor believes that a social worker is practicing outside the scope of the license, the supervisor shall make a report to the board.

[(13) Supervision completed before the effective date of this chapter will be evaluated on the basis of the rules in effect at the time the supervision plan or verification is submitted to the board.]

(13) [(14)] A supervisor may not be ["]employed by["] or ["]under the employment supervision of["] the person whom he or she is supervising.

(14) [(15)] A supervisor may not be related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood or adoption) to the person whom he or she is supervising.

(15) [(16)] During the period of supervised experience, a supervisee may be employed on a salary basis or volunteer within an established supervisory setting. The established settings must be structured with clearly defined job descriptions and areas of responsibility. The board may require that the applicant provide documentation of all work experience.

(16) [(17)] All supervision submitted in fulfillment of the board's requirements must have been on a formal basis arranged prior to the period of supervision. Supervisory arrangements must include all specific conditions agreed to by the supervisor and supervisee.

(17) [(18)] No payment for services will be made directly by a client to the supervisee.

(18) [(19)] Client records are the responsibility of the agency and shall remain the property of the agency and not the property of the supervisee.

(19) [(20)] A supervisor shall submit billing reflective of the services provided and the provider of that service. All billing documents for services provided by the supervisee shall reflect the license held by the supervisee and that the licensee is under supervision.

(20) [(21)] Supervision received during time when either the supervisor or supervisee has an expired license will be accepted only on approval by the board of an appeal.

§781.311. Temporary License.

(a) Prior to examination, an applicant for licensure may obtain a temporary license as a social worker as long as the applicant meets all the requirements, with the exception of the licensing examination, for the level of license sought.

(1) - (4) (No change.)

(5) Should the applicant pass the exam the board will issue the license or specialty recognition in accordance with §781.305(g) of this title (relating to Application for Licensure). A temporary license holder who has passed the licensing examination is considered temporarily licensed until a regular license is issued by the board or until the temporary license expires.

(b) - (e) (No change.)

§781.314. Issuance of License Certificates.

(a) The board issues license certificates indicating the **[professional]** social work title, whether LBSW, LMSW[, LMSW-AP] or LCSW, granted to applicants who have met all of the qualifications established by the board. The license certificate will indicate the date that the license expires, unless it is renewed. The board shall have a method to indicate the new expiration date of a license which has been renewed. The license certificate will also include any specialty recognition or supervisory status, if applicable.

(b) - (c) (No change.)

(d) A copy of the Code of Conduct listed in §781.401 of this title (relating to Code of Conduct) is issued with the license certificate. The copy of the Code of Conduct also includes information regarding the client complaint process. The copy of the Code of Conduct must be displayed in all locations of practice.

(e) (No change.)

(f) A licensee who offers social work services on the Internet must include a statement that the licensee is licensed by the State of Texas and provide a copy of the Code of Conduct **[code of ethics]** with the information on how to contact this board by mail or telephone.

(g) (No change.)

§781.402. The Practice of **[Professional]** Social Work.

(a) Practice of Baccalaureate Social Work--The application of social work theory, knowledge, methods, ethics and the professional use of self to restore or enhance social,

psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. Baccalaureate Social Work is basic generalist practice that includes interviewing, assessment, planning, intervention, evaluation, case management, mediation, counseling, supportive counseling, direct practice, information and referral, problem solving, supervision, consultation, education, advocacy, community organization and the development, implementation, and administration of policies, programs and activities. A LBSW recognized for independent practice may provide any non-clinical baccalaureate social work services in either an employment or an independent practice setting. A LBSW recognized for independent practice may work under contract, bill directly for services, and bill third parties for reimbursements for services. A LBSW recognized for independent practice must restrict his or her independent practice to the provision of non-clinical social work services.

(b) Practice of Clinical Social Work—The [A specialty within the] practice of social work that requires the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, and/or persons who are adversely affected by social or psychosocial stress or health impairment. The practice of Clinical Social Work requires applying [the application of] specialized clinical knowledge and advanced clinical skills in [the areas of] assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions, including severe mental illness in adults and serious emotional disturbances in children. The practice of Clinical Social Work acknowledges the practitioners ability to engage in Baccalaureate Social Work practice and Master's Social Work Practice. Treatment methods include but are not limited to providing [the provision of] individual, marital, couple, family, and group therapy mediation, counseling, supportive counseling, direct practice, and psychotherapy. Clinical social workers are qualified to use the Diagnostic and Statistical Manual of Mental Disorders (DSM), the International Classification of Diseases (ICD), Current Procedural Terminology (CPT) Codes, and other diagnostic classification systems in assessment, diagnosis, treatment and other practice activities. The practice of Clinical Social Work may include independent clinical practice and the provision of clinical supervision. A LCSW may provide any clinical or non-clinical social work services in either an employment or independent practice setting. A LCSW may work under contract, bill directly for services, and bill third parties for reimbursements for services.

(c) Practice of Master's Social Work--The [is the] application of social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. The Practice of Master's Social Work may include the Practice of Clinical Social Work in an agency employment setting under clinical supervision. A LMSW may practice clinical social work under contract with an agency when under a board approved clinical supervision plan. Master's Social Work practice includes applying [requires the application of] specialized knowledge and advanced practice skills in [the areas of] assessment, diagnosis, treatment, planning, implementation and evaluation, case management, mediation, counseling, supportive counseling, direct practice, information and referral, supervision, consultation, education, research, advocacy, community organization and developing, implementing and administering [the development, implementation, and administration of] policies, programs and activities. [The Practice of Master's Social Work may include the

Practice of Clinical Social Work under clinical supervision.] The practice of Master's Social Work acknowledges the practitioners ability to engage in Baccalaureate Social Work practice. A LMSW recognized as an Advanced Practitioner (LMSW-AP) may provide any non-clinical social work services in either an employment or an independent practice setting. A LMSW-AP may work under contract, bill directly for services, and bill third parties for reimbursements for services. A LMSW recognized for independent practice may provide any non-clinical social work services in either an employment or an independent practice setting. A LMSW recognized for independent practice may work under contract, bill directly for services, and bill third parties for reimbursements for services. A LMSW recognized for independent practice and a LMSW-AP must restrict his or her independent practice to the provision of non-clinical social work services.

(d) A licensee who is not recognized for independent practice or working under supervision under the authority of a board approved non-clinical supervision plan must not engage in any independent practice that falls within the definition of social work practice in §781.102 of this title (relating to Definitions) without being licensed and recognized by the board unless the person is licensed in another profession and acting solely within the scope of that license. If engaged in professional practice under another license, the person may not use the titles "licensed clinical social worker," "licensed master social worker," "licensed social worker," "licensed baccalaureate social worker," or "social work associate" or any other title or initials that states or implies licensure or certification in social work unless one holds the appropriate license or independent practice recognition.

[(d) Independent Non-Clinical Practice --The practice of non-clinical social work outside the jurisdiction of an organizational setting, after completion of all applicable supervision requirements, in which the social worker assumes responsibility and accountability for the nature and quality of the services provided to clients, pro bono or in exchange for direct payment or third party reimbursement.]

(e) An LBSW or LMSW who is not recognized for independent practice may not provide direct social work services to clients from a location that she or he owns or leases and that is not owned or leased by an employer or other legal entity with responsibility for the client. This does not preclude in home services such as in home health care or the use of telephones or other electronic media to provide services in an emergency.

[(e) Independent Clinical Practice--The provision of clinical social work in independent practice wherein the in which the social worker assumes responsibility and accountability for the nature and quality of the services provided to clients, pro bono or in exchange for direct payment or third party reimbursement.]

(f) An LBSW or LMSW who is not recognized for independent practice may practice for remuneration in a direct employment or agency setting and can not work independently, bill directly to patients or to third party payers, unless the LBSW or LMSW is under a formal supervision plan approved by the board.

§781.403. General Standards of Practice. The scope of this section establishes standards of professional conduct required of a social worker. The licensee, following applicable statutes.

(1) - (8) (No change.)

(9) If bartering for services, shall [**has the responsibility to**] assure that the market value of the barter does not exceed the customary charge for the service.

(10) Shall ensure that the client or a legally authorized person representing the client has signed a consent for services, when appropriate.

§781.404. Relationships with Clients.

(a) A social worker shall make known to a prospective client the important aspects of the professional relationship, which can include but is not limited to office procedures, after-hours coverage, services to be provided, fees and arrangements for payment that might affect the client's decision to enter into the relationship.

(b) - (s) (No change.)

§781.405. Sexual Misconduct.

(a) For the purpose of this section, the following terms shall have the following meanings.

(1) - (2) (No change.)

(3) Sexual exploitation--A pattern, practice or scheme of exploitation, which may include, but is not limited to, sexual contact with a client.

(b) A licensee shall not engage in sexual contact or sexual exploitation with a person who is:

(1) (No change.)

(2) a supervisee of [**being supervised by**] the licensee; or

(3) (No change.)

(c) - (h) (No change.)

§781.409. Client Records and Record Keeping. Following applicable statutes, the licensee shall:

(1) - (2) (No change.)

(3) in independent practice, establish a plan for the custody and control of the licensee's client **[mental health]** records in the event of the licensee's death or incapacity, or the termination of the licensee's professional services;

(4) (No change.)

(5) **[at the request of a client, a client's guardian, or a client's parent (sole managing, joint managing or possessory conservator) if the client is a minor,]** provide**[, in plain language,]** a written explanation of the types of treatment and charges **[for counseling treatment intervention previously made]** on a bill or statement to **[for]** the client (this **[requirement]** applies even if the charges are to be paid by a third party); and

(6) comply with the requirements of Texas Health and Safety Code, Chapters 161 and 611; Texas Family Code, Chapter 261; and other applicable state law concerning confidentiality of protected health information and the release of mental health records<etb>.<et> [; and]

[(7) be responsible for services rendered when providing approval by signature for services rendered by another individual who may or may not be licensed.]

§781.414. Consumer Information.

(a) A licensee shall inform each client of the name, address, and telephone number of the board for the purpose of reporting violations of the Act or this chapter in one of the following:

- (1) **[on]** each registration form;
- (2) **[on]** each application;
- (3) each **[on a]** written contract for services;
- (4) **[on]** a sign prominently displayed in each place of business; or
- (5) **[in]** a bill for services provided.

(b) The board shall make consumer information available to the public on the board's web site or upon request.

§781.419. Licensed Sex Offender Treatment. A social worker who is licensed as a sex offender treatment provider by the Council on Sex Offender Treatment is not subject to disciplinary action by the board in relation to the social worker's provision of sex offender treatment. A social worker who is a sex offender treatment provider and who acts in conformance with the rules, policies, and procedures of the council is not subject to any administrative sanction by the board. If the Council on Sex Offender Treatment takes disciplinary action against a social worker who is a sex offender treatment provider, the board may consider the final order imposing such disciplinary action as grounds for disciplinary action by the board.

§781.502. License Renewal. **[Staggered Renewals. The board shall use a staggered system for license renewals.]**

(a) Licenses shall be renewed for a two-year period.

(b) **[(1)]** The renewal date of a license shall be the last day of the licensee's birth month.

[(2) License fees will be prorated if the licensee's initial renewal date, as determined by the board, occurs less than 12 months after the original date of licensure.]

[(3) Prorated fees shall be rounded off to the nearest dollar.]

§781.505. Inactive Status.

(a) A licensee who does not wish to practice social work in the state of Texas and whose license has not expired **[lapsed, but who is not employed to provide social work services in Texas,]** is eligible for inactive status. The request for inactive status may be made to the board at any time prior to the expiration **[lapse]** of the license.

(b) (No change.)

(c) The inactive status fee and any applicable renewal fee and penalty fee for late renewal must be paid prior to the date the license expires **[lapses]**.

(d) A licensee who has been granted inactive status **[person]** must notify the board in writing to reactivate the license **[person's status]**. The reactivated license **[Reactivation]** status shall begin within seven days **[on the first day of the month]** following receipt of verification of payment of the reactivation **[license]** fee. **[The license fee shall be prorated to the next renewal date in accordance with §781.502 of this title (relating to Staggered Renewals).]**

§781.509. Types of Acceptable Continuing Education. Continuing education undertaken by a licensee shall be acceptable to the board as credit hours if the education falls in one or more of the following categories:

(1) - (5) (No change.)

(6) completing **[completion of]** the board's jurisprudence training course no more than once per renewal period, unless the board directs otherwise.

§781.511. Requirements for Continuing Education Providers.

(a) - (j) (No change.)

(k) It shall be the responsibility of a provider to provide each participant in a program with a legible certificate of attendance following the completion of a course. The certificate of attendance shall contain:

(1) the name of the provider, **[and]** the approval number, and the expiration date of the provider's approved status;

(2) - (7) (No change.)

(l) - (p) (No change.)

(q) A program offered by a provider for credit hours in ethics shall meet the minimum course requirements for an ethics course approved by the board.

§781.512. Evaluation of Continuing Education Providers.

(a) - (e) (No change.)

(f) Complaints regarding continuing education programs offered by approved continuing education providers may be submitted in writing to the executive director. Complaints may result in an audit of a continuing education provider and may be referred to the **[appropriate committee of the]** board for appropriate action.

(g) A provider whose approval status has been rescinded by the board may reapply for approval on or after the 91st day following the board action. The provider must provide documentation that corrective action has been taken and that the provider's programs will be presented in compliance with §781.511 of this title. The [An appropriate committee of the] board shall review reapplication by a formerly denied continuing education provider.

(h) - (j) (No change.)

§781.517. Evaluation of Supervisor Training Course Providers.

(a) - (i) (No change.)

(j) Supervisory training courses approved by the board before September 8, 2007 must meet the requirements in §781.511 of this title (relating to Requirements for Continuing Education Providers) by August 31, 2008.

§781.603. Complaint Procedures.

(a) A person wishing to report an alleged violation of the Act or this chapter by a licensee or other person may [shall] notify the department staff [executive director]. The initial notification may be in writing, by telephone, or by personal visit to the board office.

(b) The department staff [executive director] will be responsible for the receipt and processing of complaints. The department staff [executive director] will maintain a log of the receipt, investigation and disposition of all complaints. The board chairperson will appoint an ethics committee to work with the department staff [executive director].

(c) - (d) (No change.)

(e) On receipt of a complaint, department staff **[the executive director]** shall send an acknowledgment letter. **[If the complaint is not in the form of a sworn statement, a copy of applicable rules, and an official form will be included with the letter of acknowledgment and further action on the complaint may, at the discretion of the executive director, be delayed until a sworn statement is received. The executive director may accept an anonymous complaint or a complaint that is not a sworn statement if there is sufficient information for the investigation; however, the executive director shall then complete a complaint form under oath.]**

(f) Department staff shall forward complaints to the executive director for an initial review. The [Within 15 days of the receipt of a complaint, the] executive director shall review the complaint for jurisdiction. If a complaint appears to be within the jurisdiction of the board, the executive director shall decide whether to authorize department staff to send a copy of the complaint to the respondent and request a response. If the executive director does not authorize notification of the respondent by letter, the complaint will be referred for an investigation and the assigned investigator will determine the manner in which the respondent will be notified of the complaint (by letter, by phone call, by a site visit, or by some other appropriate means. [to assure that there is sufficient information to initiate an investigation and that the allegations contained in the complaint fall within the board's jurisdiction.] If the complaint is against a person licensed by another board, the department staff **[executive director]** will forward the complaint to that board not later than the 15th day after the date the agency determines that the information should be referred to the appropriate agency as provided in Government Code, Chapter 774.

(g) If the allegations do not fall within the board's jurisdiction, the executive director shall refer the complaint to the Ethics Committee. Based on its review of the complaint, the Ethics Committee may **[instruct the executive director to]:**

(1) close the complaint with a letter to the complainant explaining that [why] the complaint is not within the board's jurisdiction; or

(2) refer the complaint for further investigation [advise the complainant of the additional information necessary to initiate an investigation].

(h) If the allegations in the complaint are within the board's jurisdiction and sufficient for investigation, the executive director shall:

(1) - (2) (No change.)

(3) instruct agency staff to send a notice to the complainant acknowledging that the complaint was received, unless the complaint was anonymous [notify all parties, as appropriate, to the circumstances of the complaint, that an investigation has been initiated,

and provide a copy of the board's policy regarding the time frame for conducting an investigation]; and

(4) (No change.)

(i) The department staff [**executive director**] will initiate the investigation of a complaint by requesting statements and evidence from all parties; by requesting that the complaint investigation be conducted by a department investigator; or may enlist the service of a private investigator.

[(j) If an investigation is assigned to an investigator, the executive director will request a written report of the progress of the investigation at least two weeks before each meeting of the ethics committee until the investigation is complete and will provide a copy of the report to the committee.]

(j) [(k)] If an investigation uncovers evidence of a criminal act, the appropriate law enforcement officials will be notified only with approval of the executive director or the Ethics Committee. In any case, the complaint process will continue to its completion unless a written request is received from a law enforcement agency requesting that action on the complaint be delayed, stating the reason for requesting the delay, and stating an anticipated date by which that agency plans to take action on the case.

(k) [(l)] If a law enforcement agency has requested a delay in the complaint process in writing, the executive director will request timely updates on that agency's progress in bringing the matter to a close.

(l) [(m)] The department staff [**executive director**] will inform the board if the services of a private investigator are needed for the timely completion of a complaint investigation or for any other reason.

(m) [(n)] The subject of the complaint will be notified of the allegations either in writing, by phone or in person by the executive director or the investigator assigned to the case and will be required to provide a sworn response to the allegations within fifteen days [**two weeks**] of that notice. Failure to respond to the allegations within the fifteen days [**two-week period**] is evidence of failure to cooperate with the investigation and subject to disciplinary action.

(n) [(o)] The ethics committee will review the complaint log to ensure that:

- (1) complaint investigations are being handled in a timely manner;
- (2) complaints are not dismissed without appropriate consideration;
- (3) a person who files a complaint has an opportunity to explain the allegations made in the complaint; and
- (4) any issues related to complaints which arise under the Act, or this chapter, are resolved.

(o) [(p)] The ethics committee shall determine whether a violation exists and whether to dismiss the complaint as unsubstantiated or to consider appropriate disciplinary action.

(p) [(q)] If a violation is found but it does not seriously affect the health and safety of clients or other persons, the committee may resolve the complaint by informal methods such as a cease and desist order or an informal agreement with the violator to correct the violation.

(q) [(r)] If the complaint is not resolved by the committee, the committee may recommend that disciplinary action be taken or that other appropriate action as authorized by law be taken, including injunctive relief or civil penalties. Action may be taken based on the allegations in the complaint or any violations found during investigation.

(r) [(s)] If no violation exists or the complaint is dismissed as unsubstantiated, the complainant and the licensee or applicant shall be notified in writing of the finding. The committee may include in that notice a statement of issues and recommendations that the committee wishes to bring to the attention of the subject of the complaint.

(s) [(t)] If the executive director receives credible evidence that a licensee is engaging in acts that pose an immediate and significant threat of physical or emotional harm to the public, the executive director shall consult with the members of the ethics committee for authorization for an emergency suspension of the license.

(t) Once a complaint has been dismissed by the committee, it cannot be reopened. If new information that appears to be significant is received regarding circumstances surrounding a complaint that has been dismissed, a new complaint may be opened.

[§781.609. Default Orders.

(a) If a right to a hearing is waived under §781.602(c) of this title (relating to Disciplinary Action; Notices) or §781.703(b) of this title (relating to Notice), the board shall consider an order taking disciplinary action as described in the written notice to the licensee or applicant.

(b) The licensee or applicant and the complainant shall be notified of the date, time, and place of the board meeting at which the default order will be considered. Attendance is voluntary.

(c) The board's legal counsel or any attorney from the department's Office of General Counsel shall attend the board meeting.

(d) Upon an affirmative majority vote, the board shall enter an order imposing appropriate disciplinary action.]