

CHAPTER 605

S.B. No. 1426

AN ACT

relating to the regulation of social workers and to the creation of a new state board to replace the Council for Social Work Certification.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 50.001, Human Resources Code, is amended to read as follows:

Sec. 50.001. *TITLE; DEFINITIONS. (a) This chapter may be cited as the Texas Professional Social Work Act.*

(b) In this chapter:

(1) "Board" means the Texas State Board of Social Worker Examiners [Human Services].

(2) "~~Licensed [Certified]~~ social worker" means a person who is duly *licensed* [~~certified~~] as a *licensed* [~~certified~~] social worker by the *board* [~~department~~] in accordance with this chapter.

(3) [~~"Social work services" means the professional activity of helping individuals, groups, or communities enhance or restore their capacity for social functioning and creating societal conditions favorable to this goal. Social work services consist of the professional application of social work values, principles, and techniques to one or more of the following ends: helping people obtain tangible services, counseling with individuals, families, or groups, helping communities or groups provide social and health services, and participating in formulating relevant public policies. The practice of social work requires knowledge of human development and behavior, of social, economic, and cultural institutions, and of the interaction of all these factors.~~]

[(4)] "Social worker" means a person who has been *licensed* [~~duly certified as a social worker~~] by the *board* [~~department~~] in accordance with this chapter.

(4) "*Licensed master social worker*" means a person who is *licensed* as a *licensed master social worker* by the *board* in accordance with this chapter.

(5) "*Advanced clinical practitioner*" means a person who is *licensed* as a *licensed master social worker* and recognized as being qualified for the practice of *clinical social work* by the *board* in accordance with this chapter.

(6) "*Professional social work practice*" means *service and action performed for compensation to effect changes in human behavior, a person's emotional responses, interpersonal relationships, and the social conditions of individuals, families, groups, organizations, and communities. For the purpose of this definition, the practice of professional social work is guided by special knowledge, acquired through formal professional social work education, of social welfare policies and services, social welfare systems and resources, human 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. Professional social work practice involves the disciplined application of social work values, principles, and methods, including psychotherapy, marriage and family therapy, couples therapy, group therapy, counseling, assessment, and evaluation.*

(7) "License" means a license required of a person to use any title or represent that the person is authorized to practice professional social work under this chapter.

(8) "Council on Social Work Education" means the national organization primarily responsible for accrediting schools of social work in the United States.

(9) "Department" means the Texas Department of Health.

(10) [(5)] "Social work associate" means a person who is *licensed* [~~has been duly certified~~] as a social work associate by the *board* [~~department~~] in accordance with this chapter.

[(6)] "Council" means the Council for Social Work Certification.

[(7)] "Department" means the Texas Department of Human Services.]

(c) [(b)] The *board* [~~department~~] may define by rule any word or term not defined in this section as necessary to administer or enforce this chapter. The definition may not be inconsistent or in conflict with the purposes or objectives of this chapter.

SECTION 2. Section 50.002, Human Resources Code, is amended to read as follows:

Sec. 50.002. EXEMPTIONS. *This chapter does not apply to:*

(1) *activities or services of other licensed, certified, or registered professions, including physicians and surgeons, attorneys, registered and licensed vocational nurses, psychologists, occupational therapists, licensed marriage and family therapists, licensed chemical dependency counselors, and licensed professional counselors, if the persons act within the scope of their respective licenses and do not use the titles in Section 50.010;*

(2) the delivery of human services by a volunteer or a staff member, if the person does not represent the person's services as social work services or represent the person as a social worker or use a title that would imply licensure or certification in professional social work services;

(3) the activity of a student, intern, or trainee in social work in connection with an institution of higher learning accredited by the Council on Social Work Education;

(4) an activity constituting a part of the course of study for the baccalaureate or master's degree in social work, if the person does not use a title that would imply licensure or certification in professional social work services;

(5) a service rendered by a nonresident of this state for less than 30 days during the calendar year, if the person is authorized to provide the service under the laws of the state or country of the person's residence;

(6) the activity or service of pastoral care counselors, including Christian Science practitioners recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal and other recognized religious practitioners, if the person does not use a title that would imply licensure or certification in professional social work services; or

(7) all ~~[All]~~ persons who ~~[are exempt from this chapter if they]~~ do not represent or hold themselves out to the public, directly or indirectly, as ~~licensed [certified]~~ under this chapter and do not use any name, title, or designation indicating that they are ~~licensed [certified]~~ under this chapter.

SECTION 3. Section 50.003, Human Resources Code, is amended to read as follows:

Sec. 50.003. CIVIL RIGHTS. A consideration of an application for ~~licensure [certification]~~, examination, regulation, disciplinary proceeding, and any other action and decision performed by authority of this chapter shall be made or done without regard to sex, race, religion, national origin, color, or political affiliation.

SECTION 4. Section 50.004, Human Resources Code, is amended to read as follows:

Sec. 50.004. ~~TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS [COUNCIL FOR SOCIAL WORK CERTIFICATION]~~. (a) ~~The Texas State Board of Social Worker Examiners [Council for Social Work Certification] is created [to advise the department on problems relating to the practice of social work. The council shall review rules and minimum standards for social work certification and make recommendations to the department concerning rules, standards, and administration under this chapter].~~

(b) ~~The board [ouncil] is composed of nine members appointed by the governor with the advice and consent of the senate [board upon the recommendation of the commissioner]. The board [ouncil] is composed as follows: three members shall be at all times licensed master [certified] social workers licensed [certified] under this chapter, at least two of whom shall be at all times recognized as advanced clinical practitioners; two [three] members shall be at all times licensed social workers licensed [or social work associates certified] under this chapter; one member shall be at all times a social work associate licensed under this chapter;[,] and the remaining three members shall be representatives of the public who are not licensed [certified] under this chapter and who do not have, other than as consumers, any interest in the practice of social work. [Until December 31, 1987, one member who is a certified social worker must have been certified under the work experience qualifications prescribed by Subdivision (3) or (4) of Subsection (a) of Section 50.015 of this chapter, and one member who is a social worker must have been certified under the work experience qualifications prescribed by Subdivisions (2), (3), or (4) of Subsection (a) of Section 50.016 of this chapter.]~~

(c) ~~Members of the board [Except for the initial appointments, members] hold office for staggered terms of six [three] years with three members' terms expiring February 1 [January 31] of each odd-numbered year. A member appointed to fill a vacancy shall hold office for the remainder of that term. [In making the initial appointments, the board shall appoint members within 90 days after this chapter takes effect to serve the following terms: three members for terms that expire January 31, 1985, three members for terms that expire January 31, 1984, and three members for terms that expire January 31, 1983.]~~

(d) The *governor* [board] shall make appointments to the *board* [council] after considering how representative the *board* [council] is with regard to race, sex, age, and geographical representation.

(e) ~~It is a ground for removal from the council that a member:~~

~~(1) does not have at the time of appointment the qualifications required by Subsection (b) of this section for appointment to the council;~~

~~(2) does not maintain during the service on the council the qualifications required by Subsection (b) of this section for appointment to the council; or~~

~~(3) violates a prohibition established by Subsection (g) or (h) of this section. The validity of an action of the council is not affected by the fact that it was taken when a ground for removal of a member of the council existed.~~

~~(f) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of his activities for compensation in or on behalf of a profession related to the operation of the council may not serve as a council member or act as the general counsel to the council.~~

~~(g) A member or employee of the council may not be an officer, employee, or paid consultant of a trade association in the field of social work.~~

~~(h) A member or employee of the council may not be related within the second degree by affinity or consanguinity, as determined under Article 5996h, Revised Statutes, to a person who is an officer, employee, or paid consultant of a trade association in the field of social work.~~

~~(i) Members of the council must be citizens of the United States and residents of this state. Social workers appointed to the board must be certified as required by this section, except that the initial appointees must be persons who are eligible for the appropriate certificate and must have actively, actually, and continuously engaged in rendering social work services or in social work teaching or administration for a period of at least five years immediately preceding appointment.~~

~~(j) Each member of the board [council] is entitled to a per diem as set by legislative appropriation for state employees and travel expenses to and from the business of the board [council]. No member shall receive actual or necessary expenses except for travel to and from meetings.~~

~~(k) The board [council] shall meet at least once a year. The governor shall designate one member of the board as presiding officer to serve in that capacity at the pleasure of the governor. At the first regular meeting each year the board [council] shall elect other officers [a chairman and a vice chairman]. Other regular meetings may be held as the rules of the board [council] may provide. Special meetings may be held at times considered advisable by the board [council].~~

~~(l) The board [council] is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).~~

~~(m) The department shall provide staff necessary to assist the council in performing its duties. The staff person directly responsible for the administration of this chapter shall at all times have the confidence of the majority of the council.~~

~~(n) The Texas State Board of Social Worker Examiners [Council for Social Work Certification] is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board [council] is abolished and this section expires September 1, 2005 [1993]. [If the council is continued in existence beyond that date, subsequent sunset provisions should be made to conform with those of the Texas Department of Human Services.]~~

SECTION 5. Chapter 50, Human Resources Code, is amended by adding Sections 50.0041 through 50.0045 to read as follows:

Sec. 50.0041. PUBLIC MEMBERSHIP RESTRICTION. A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of a business entity or other organization regulated by the board or the department or receiving funds from the board or the department;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the board or the department or receiving funds from the board or the department; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the board or the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Sec. 50.0042. CONFLICT OF INTEREST RESTRICTIONS. (a) An officer, employee, or paid consultant of a Texas trade association in the field of health care may not be a member of the board or employee of the department who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of health care may not be a board member and may not be an employee of the department who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Sec. 50.0043. EFFECT OF LOBBYING ACTIVITY. A person may not serve as a member of the board or serve as general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, and its subsequent amendments, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 50.0044. GROUNDS FOR REMOVAL FROM BOARD. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Section 50.004;

(2) does not maintain during service on the board the qualifications required by Section 50.004;

(3) violates a prohibition established by Section 50.0042 or 50.0043;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the governor and the attorney general that a potential ground for removal exists.

Sec. 50.0045. STAFF. (a) The board is administratively attached to the Texas Department of Health and the basic personnel and necessary facilities that are required to administer this chapter shall be the personnel and facilities of the department. The department personnel shall act as the agents of the board. If necessary to the administration of this chapter, the department by agreement may secure and provide for compensation for services that it considers necessary and may employ and compensate within available

appropriations professional consultants, technical assistants, and employees on a full-time or part-time basis.

(b) The commissioner of health shall designate an employee of the department to serve as executive director of the board. The executive director shall be the administrator of the licensing and regulatory activities of the board. In addition to other duties provided by this chapter and by the department, the executive director shall:

- (1) keep full and accurate minutes of the transactions and proceedings of the board;
- (2) be the custodian of the files and records of the board;
- (3) prepare and recommend to the board plans and procedures necessary to implement the purposes and objectives of this chapter, including rules and proposals or administrative procedures consistent with this chapter;
- (4) exercise general supervision over persons employed by the department in the administration of this chapter;
- (5) be responsible for the investigation of complaints and for the presentation of formal complaints;
- (6) attend all meetings of the board as a nonvoting participant; and
- (7) handle the correspondence of the board and obtain, assemble, or prepare the reports and information that the board may direct or authorize.

(c) The department shall provide staff necessary to assist the board in performing its duties. The executive director shall at all times have the confidence of the majority of the board.

SECTION 6. Section 50.005, Human Resources Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) All money paid to the department [~~derived from fees, assessments, or charges~~] under this chapter shall be deposited in the state treasury to the credit of a special social worker account in the general revenue fund and may be used only for the administration [~~paid by the department into the State Treasury for safekeeping and shall be placed by the State Treasurer in a separate fund to be known as the social workers fund. The money shall be available to the department exclusively for the administration, implementation,~~] and enforcement of this chapter. Surpluses are reserved for the use of the department in the administration and enforcement of this chapter.

(c) The financial transactions of the board are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(d) The department shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding fiscal year. The annual report must be in a form and reported in the time provided by the General Appropriations Act.

SECTION 7. Section 50.006, Human Resources Code, is amended to read as follows:

Sec. 50.006. REGULATION AND ENFORCEMENT. (a) The board [~~department~~] may [~~adopt and~~] enforce [~~the~~] rules adopted by the board necessary for the performance of its duties, establish standards of conduct and ethics for all persons licensed [~~certified~~] under this chapter, and ensure strict compliance with and enforcement of this chapter. In adopting rules, the board shall consider the rules and procedures of the Texas Board of Health and the department and shall adopt procedural rules not inconsistent with similar existing rules and procedures of the Texas Board of Health or the department.

(b) The violation by a licensed master [~~certified~~] social worker, licensed social worker, or social work associate of this chapter or of any rule of the board [~~department~~] pertaining to the practice of social work is sufficient reason to reprimand a license holder or to suspend or revoke a license [~~certificate~~] issued under this chapter.

(c) In addition to any other action, proceeding, or remedy authorized by law, the board or department may institute an action to enjoin a violation of this chapter or a rule of the board [~~department~~]. The suit may be brought in Travis County, in the county of the defendant's residence, or in the county where any part of the alleged violation occurred. In order for the board or department to sustain the action, it is not necessary to allege or prove the lack of an

adequate remedy at law or that substantial or irreparable damage would result from the continued violation. Either party to the action may appeal to the appellate court having jurisdiction of the cause. The board or department shall not be required to give any appeal bond in any cause arising under this chapter. The attorney general shall represent the board or department in all actions and proceedings to enforce this chapter.

(d) The board [department] shall prepare information of consumer interest describing the regulatory functions of the board [department] and describing the board's [department's] procedures by which consumer complaints are filed with and resolved by the board [department]. The board [department] shall make the information available to the general public and appropriate state agencies.

(e) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for that notification:

(1) on each registration form, application, or written contract for services of an individual or entity regulated by the board;

(2) on a sign prominently displayed in the place of business of each individual or entity regulated by the board; or

(3) in a bill for service provided by an individual or entity regulated by the board.

(f) The board shall list along with its regular telephone number the toll-free telephone number that may be called to present a complaint about a health professional if the toll-free number is established under other state law [~~There shall be prominently displayed at all times in the place of business of each person certified under this chapter a sign containing the name, mailing address, and telephone number of the department and a statement informing consumers that complaints against persons certified under this chapter may be directed to the department~~].

SECTION 8. Section 50.0061, Human Resources Code, is amended to read as follows:

Sec. 50.0061. ADVERTISING. (a) The board [department] may not adopt rules restricting competitive bidding or advertising by a person regulated by the board [department] except to prohibit false, misleading, or deceptive practices by the person.

(b) The board [department] may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board [department] a rule that:

(1) restricts the person's use of any medium for advertising;

(2) restricts the person's personal appearance or use of the person's [his] voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

SECTION 9. Chapter 50, Human Resources Code, is amended by adding Sections 50.0062 through 50.0065 to read as follows:

Sec. 50.0062. PUBLIC PARTICIPATION IN BOARD HEARINGS. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Sec. 50.0063. PROGRAM ACCESSIBILITY. The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

Sec. 50.0064. STANDARDS OF CONDUCT INFORMATION. The board shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this article and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 50.0065. TRAINING. (a) The board shall establish a training program for the members of the board.

(b) Before a member of the board may assume the member's duties, the member must complete at least one course of the training program established under this section.

(c) A training program established under this section shall provide information to a participant regarding:

- (1) the enabling legislation that created the board;
 - (2) the programs operated by the board;
 - (3) the role and functions of the board;
 - (4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;
 - (5) the current budget for the board;
 - (6) the results of the most recent formal audit of the board;
 - (7) the requirements of the:
 - (A) open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes);
 - (B) open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes); and
 - (C) Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes);
 - (8) the requirements of the conflict of interest laws and other laws relating to public officials; and
 - (9) any applicable ethics policies adopted by the board or the Texas Ethics Commission.
- (d) In developing the training requirements provided for by this section, the board shall consult with the governor's office, the attorney general's office, and the Texas Ethics Commission.

(e) In the event that another state agency or entity is given the authority to establish the training requirements, the board shall allow that training in lieu of developing its own program.

SECTION 10. Subsection (a), Section 50.008, Human Resources Code, is amended to read as follows:

(a) A roster showing the names and addresses, as reflected by the board's [department's] records, of all licensed master [certified] social workers, licensed social workers, and social work associates licensed [certified] by the board [department] shall be prepared and published by the board [department] at its discretion. Copies of the roster shall be mailed to each person licensed [certified] by the board [department] and placed on file with the secretary of state.

SECTION 11. Section 50.009, Human Resources Code, is amended to read as follows:

Sec. 50.009. FEES. (a) The board by rule [department] shall establish reasonable and necessary[, charge, and collect] fees so that the fees, in the aggregate, produce sufficient revenues to cover the cost of administering this chapter[, as follows:

- ~~(1) a fee for the filing of an application to take an examination for a certificate under this chapter;~~
- ~~(2) a fee for the taking of an examination;~~
- ~~(3) a fee for the original issuance of certificate under this chapter;~~
- ~~(4) a fee for the original issuance of an order of recognition to practice a specialty in the practice of social work;~~
- ~~(5) a fee for an annual renewal of an order of recognition to practice a specialty in the practice of social work;~~
- ~~(6) a fee for an annual renewal of a certificate issued in accordance with this chapter;~~
- ~~(7) a fee for replacement of a certificate, specialty order of recognition, or renewal lost or destroyed; and~~
- ~~(8) a fee for a copy of the official roster of certified persons published by the department for the one copy mailed to each person certified].~~

(b) *The fees set by the board may be adjusted so that the total fees collected are sufficient to meet the expenses of administering this chapter. The board may not set a fee for an amount less than the amount of that fee on September 1, 1993* [~~a certified social work associate is qualified on September 2, 1993, to be examined for a certificate as a social worker because of a legislative change in qualifications under Section 50.016 of this chapter, the department may not charge or collect a fee for issuing the social worker certificate to that person~~].

SECTION 12. Section 50.010, Human Resources Code, is amended to read as follows:

Sec. 50.010. *LICENSE RESTRICTIONS AND LIMITATIONS* [~~LIMITATION OF PRACTICE~~]. (a) Unless *licensed* [~~certified~~] under this chapter or unless specifically exempted from its provisions, a person may not:

(1) employ, use, cause to be used, or make use of any of the following terms or any combinations, variations, or abbreviations of the terms as a professional, business, or commercial identification, title, name, representation, claim, asset, or means of advantage or benefit: “[~~certified~~] social worker,” “licensed *master* [~~certified~~] social worker,” “*licensed social worker*,” or “[~~registered certified social worker~~,” “social worker,” “licensed social worker,” “registered social worker,”] “social work associate[,]” [or “~~registered social work associate~~”]; or

(2) *use a title that implies licensure or certification in professional social work services* [~~employ, use, cause to be used, or make use of any letter, abbreviation, word, symbol, slogan, sign, or any combination or variation of them that tends or is likely to create any impression with a member of the public that a person is qualified or authorized to practice social work or is a certified social worker, social worker, or social work associate, unless appropriately certified under and practicing in accordance with this chapter~~].

(b) A person, firm, partnership, association, corporation, business, or professional entity that does or offers or attempts to do an act prescribed by Subsection (a) of this section is engaged in the practice of *professional social work*.

SECTION 13. Section 50.011, Human Resources Code, is amended to read as follows:

Sec. 50.011. *PROFESSIONAL IDENTIFICATION*. A person *licensed* [~~certified~~] by the ~~board~~ [~~department~~] in accordance with this chapter shall, in the professional use of *the person's* [~~his~~] name or any sign, directory, listing, contract, document, pamphlet, stationery, letterhead, advertisement, signature, or other means of professional identification, written or printed, use the following legally required identifications:

(1) if *licensed* [~~certified~~] as a *licensed master* [~~certified~~] social worker, the words “*licensed master* [~~certified~~] social worker” or the initials “*L.M.S.W.*” [~~“C.S.W.”~~];

(2) if *licensed* [~~certified~~] as a *licensed social worker*, the words “*licensed social worker*” or the initials “*L.S.W.*”; or

(3) if *licensed* [~~certified~~] as a *social work associate*, the words “*social work associate*” or the initials “*S.W.A.*”

SECTION 14. Section 50.012, Human Resources Code, is amended to read as follows:

Sec. 50.012. *PUBLIC REPRESENTATIONS*. A firm, partnership, association, corporation, or other business or professional entity may not hold itself or another out to the public as being engaged in the work or practice of social work or offering social work services under an assumed, trade, business, professional, partnership, or corporate name or title or employ, use, cause to be used, or make use of, directly or indirectly or in any manner, the words or terms “social work,” “social work services,” “social work, inc.,” “professional social workers,” “*licensed* [~~certified~~] social workers,” “*licensed master social workers*,” “*social work associate*,” “*L.M.S.W.*,” “*L.S.W.*,” “*S.W.A.*,” “[~~social work associates~~,” “*C.S.W.*,” “*S.W.A.*,”] or any combinations, abbreviations, or variations of any of these or in combination with any other words, letters, initials, signs, legends, or symbols on, in, or as a part of, directly or indirectly, any sign, directory, listing, contract, document, pamphlet, stationery, letterhead, advertisement, signature, trade name, assumed name, or corporate or other business or professional name, unless the firm, partnership, association, corporation, or other business or professional entity is actually and actively engaged in the practice of social work or is actually and actively performing social work services, and unless the services performed by it which constitute the

practice of social work are either personally performed or done by a [certified] social worker[, social worker, or social work associate] practicing in accordance with this chapter or under the supervision [general direction] of a licensed [certified] social worker or licensed master social worker.

SECTION 15. Section 50.013, Human Resources Code, is amended to read as follows:

Sec. 50.013. APPLICATIONS. An application for licensure [certification] under this chapter shall be on a form prescribed and furnished by the board [department] and shall contain statements made under oath setting forth in detail the applicant's education, experience, and other information as required by the board [department] that qualify the applicant for a license [certificate] under this chapter. No person is eligible for a license [certificate] provided under this chapter unless the person [he] is at least 18 years of age and worthy of the public trust and confidence.

SECTION 16. Section 50.014, Human Resources Code, is amended to read as follows:

Sec. 50.014. EXAMINATIONS. (a) At least once each calendar year the board [department] shall prepare and administer an examination to determine the qualifications of applicants for licenses [certificates] under this chapter. Examinations shall be conducted in the manner the board [department] determines and in a manner that is fair and impartial to all individuals and to every school or system of social work. Applicants shall be known to the examiners only by numbers until after the general averages of the applicants in a class have been determined and licenses [certificates] have been granted or refused. The scope and content of examinations shall be sufficient to ensure professional efficacy and competence in keeping with the highest standards of the social work profession. *The board shall have the written portion of the examination, if any, validated by an independent testing entity.*

(b) On satisfactory completion of all requirements of the examination conducted by the board [department], an applicant may be granted a license [certificate] as a licensed master [certified] social worker, licensed social worker, or social work associate as the board [department] determines.

(c) *The board by rule shall establish:*

(1) *a limit on the number of times an applicant who fails an examination may retake the examination;*

(2) *requirements for retaking an examination; and*

(3) *alternative methods of examining competency [An applicant who fails an examination may be reexamined at a subsequent time on payment of the required fees. An applicant may be reexamined only three times for the same certificate].*

(d) If requested by a person who fails the examination for a license [certificate], the board [department] shall furnish to the person an analysis of the person's performance on the examination.

(e) Not later than the 30th day after the day on which a licensing [certification] examination is administered under this chapter, the board [department] shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the board [department] shall notify examinees of the results of the examination not later than the 14th day after the day on which the board [department] receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the board [department] shall notify the examinee of the reason for the delay before the 90th day.

SECTION 17. Section 50.015, Human Resources Code, is amended to read as follows:

Sec. 50.015. LICENSED MASTER [CERTIFIED] SOCIAL WORKER. *The board [a] Until December 31, 1985, the department] shall consider [the following as minimum evidence that an applicant is qualified to be examined for a certificate as a certified social worker:*

[~~(4)~~] a doctoral degree in social work or master's degree in social work from a [an accredited] graduate program accredited [approved] by the Council on Social Work Education [department];

~~[(2) a doctoral degree or master's degree not in social work from an accredited program approved by the department and the successful completion of two years' actual and active social work experience approved by the department; or~~

~~[(3) a baccalaureate degree in social work or a related field from an educational program approved by the department and the successful completion of five years' actual and active social work experience approved by the department; or~~

~~[(4) a baccalaureate degree not in social work or a related field from an educational institution approved by the department and the successful completion of 10 years' actual and active social work experience approved by the department.~~

~~[(b) After December 31, 1985, the department shall consider only the qualifications prescribed by Subdivision (1) of Subsection (a) of this section] as minimum evidence that an applicant is qualified to be examined for a *license* [certificate] as a *licensed master* [certified] social worker.~~

SECTION 18. Section 50.016, Human Resources Code, is amended to read as follows:

Sec. 50.016. *LICENSED SOCIAL WORKER.* ~~The board [(a) Until December 31, 1985, the department]~~ shall consider ~~[the following as minimum evidence that an applicant is qualified to be examined for a certificate as a social worker:~~

~~[(1)] a baccalaureate degree in social work from an educational program accredited [approved] by the *Council on Social Work Education* [department];~~

~~[(2) a baccalaureate degree not in social work from an educational institution approved by the department and the successful completion of five years' actual and active social work experience approved by the department;~~

~~[(3) an associate degree from an educational institution approved by the department and the successful completion of 10 years' actual and active social work experience approved by the department; or~~

~~[(4) a high school diploma or its substantial equivalent as determined by the department and the successful completion of 15 years' actual and active social work experience approved by the department.~~

~~[(b) After December 31, 1985, the department shall consider only the qualifications prescribed by Subdivision (1) of Subsection (a) of this section] as minimum evidence that an applicant is qualified to be examined for a *license* [certificate] as a *licensed* social worker.~~

SECTION 19. Section 50.017, Human Resources Code, is amended to read as follows:

Sec. 50.017. *SOCIAL WORK ASSOCIATE.* ~~[(a)] The board [department]~~ shall consider the following as minimum evidence that an applicant is qualified to be examined for a *license* [certificate] as a social work associate:

~~(1) a baccalaureate degree from an accredited educational institution and the additional satisfactory completion of a *reasonable* specified number of years of actual and active social work experience approved by the board [department]; or~~

~~(2) an associate of arts degree *in the behavioral sciences as determined by the board* from an accredited educational institution and the additional satisfactory completion of a *reasonable* specified number of years of actual and active social work experience approved by the board [department]; or~~

~~[(3) a high school diploma or its substantial equivalent as determined by the department and the satisfactory completion of a specified number of years of actual and active social work experience approved by the department].~~

SECTION 20. Section 50.018, Human Resources Code, is amended to read as follows:

Sec. 50.018. *EXPERIENCE EVALUATION.* In determining the credibility and acceptability of an applicant's professional or technical experience or competence, the board [department] may require documentary evidence of the quality, scope, and nature of the experience and competence as necessary to ensure public safety, health, and welfare.

SECTION 21. Section 50.019, Human Resources Code, is amended to read as follows:

Sec. 50.019. *TEMPORARY LICENSE [PROVISIONAL CERTIFICATE].* *Prior to examination, an applicant for licensure may obtain a temporary license as long as the*

applicant meets all the requirements, except examination, as prescribed in this chapter for the level of license sought. The temporary license is valid until the results of the first qualifying written examination are available ~~[(a) Until December 31, 1985, a person who, in the judgment of the department, meets the requirements of this chapter may be issued the appropriate certificate, as the department shall determine, without examination, on application to the department in the form and content that it may require and on payment of the fee for the original issue of a certificate as established by the department in accordance with this chapter.~~

~~[(b) After December 31, 1985, a person who has some of the work experience requirements for examination in Section 50.015 or 50.016 of this chapter may, after completion of the required work experience, be issued the appropriate certificate without examination if:~~

~~[(1) the person has at least one-half of the work experience prescribed by Section 50.015 or 50.016 of this chapter by December 31, 1985;~~

~~[(2) the person notifies the department not later than December 31, 1985, of the person's intention to apply for a certificate without examination; and~~

~~[(3) the department determines that the work experience is satisfactory].~~

SECTION 22. Section 50.020, Human Resources Code, is amended to read as follows:

Sec. 50.020. PRIVATE PRACTICE. (a) The board [department] shall establish procedures for the recognition of persons qualified for the private, independent practice of social work and publish or cause to be published a roster of qualified persons. Minimum qualifications for recognition shall include:

(1) licensure [certification] as a licensed master [certified] social worker under this chapter; and [or]

(2) a number of years of acceptable social work experience as determined by the board [department].

(b) A licensed social worker or social work associate will not be eligible for recognition as being qualified to practice social work as a private, independent practitioner.

SECTION 23. Section 50.021, Human Resources Code, is amended to read as follows:

Sec. 50.021. REVOCATION AND SUSPENSION. (a) The board shall revoke or suspend ~~[department may refuse to issue or to renew]~~ a license [certificate] or order of recognition, [may] place on probation a person whose license [certificate] or order of recognition has been suspended, or [may] reprimand a person with a license [certificate] or order of recognition, ~~or may revoke or suspend a certificate or order of recognition issued under this chapter]~~ for any of the following reasons:

(1) violating a provision of this chapter or a rule of the board [department];

(2) circumventing or attempting to circumvent this chapter or a rule of the board [department];

(3) participating, directly or indirectly, in a plan, scheme, or arrangement attempting or having as its purpose the evasion of this chapter or a rule of the board [department];

(4) engaging in unethical conduct;

(5) engaging in conduct which discredits or tends to discredit the profession of social work;

(6) performing an act, allowing an omission, or making an assertion or representation that is fraudulent, deceitful, or misleading or that in any manner tends to create a misleading impression;

(7) knowingly associating with or permitting or allowing the use of any licensed [certified] person's professional services or professional identification in a project or enterprise that the person knows or with the exercise of reasonable diligence should know is a practice that violates this chapter or a rule of the board [department] pertaining to the practice of social work;

(8) knowingly associating with or permitting the use of a licensed [certified] person's name, professional services, professional identification, or endorsement in connection with a venture or enterprise that the person knows or with the exercise of reasonable diligence

should know is a trade, business, or professional practice of a fraudulent, deceitful, misleading, or dishonest nature;

(9) revealing, directly or indirectly, or causing to be revealed a confidential communication transmitted to the *licensed [certified]* person by a client or recipient of his services except as may be required by law;

(10) having a certificate or a license to practice social work in another jurisdiction denied, suspended, or revoked for reasons or causes the *board [department]* finds would constitute a violation of this chapter or a rule pertaining to the practice of social work adopted by the *board [department]*;

(11) having been convicted of a felony in an American jurisdiction; or

(12) refusing to do or perform any act or service for which the person is *licensed [certified]* under this chapter solely on the basis of the recipient's age, sex, race, religion, national origin, color, or political affiliation.

(b) If a license or order of recognition suspension is probated, the board may require the probationer to:

(1) report regularly to the board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the board; or

(3) continue or review continuing professional education until the probationer attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

SECTION 24. Section 50.022, Human Resources Code, is amended to read as follows:

Sec. 50.022. DISCIPLINARY PROCEEDINGS. (a) A proceeding under Section 50.021 ~~[of this chapter]~~ begins when a charge is filed with the department and referred to the board in writing and under oath. The charge may be made by any person.

(b) A person is entitled to notice and a hearing before the State Office of Administrative Hearings before a sanction is imposed under Section 50.021.

~~[(c) The department may rule that the order revoking or suspending a certificate or order of recognition be probated so long as the probationer conforms to the orders and rules that the department sets out as the terms of probation. The department, at the time of probation, shall set out the period of time that constitutes the probationary period. The department may at any time while the probationer remains on probation hold a hearing and on majority vote rescind the probation and enforce the department's original action in revoking or suspending the certificate or order of recognition.]~~

~~[(d) The department shall provide for notice and an opportunity to appeal from disciplinary proceedings.]~~ Disciplinary proceedings and the appeals from the proceedings are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). *The board by rule shall adopt a broad schedule of sanctions for violations under this chapter. The State Office of Administrative Hearings shall use the schedule for any sanction imposed as the result of a hearing conducted by that office.*

~~[(e) The department shall keep an information file on each complaint or charge filed. During the consideration of a charge filed under this section and until the charge is finally resolved, all parties shall be informed monthly in writing as to the status of the complaint.]~~

SECTION 25. Chapter 50, Human Resources Code, is amended by adding Sections 50.0221 through 50.0224 to read as follows:

Sec. 50.0221. COMPLAINT PROCEDURE IN GENERAL. (a) *The board shall keep an information file about each complaint filed with the department and referred to the board. The board's information file shall be kept current and contain a record for each complaint of:*

(1) all persons contacted in relation to the complaint;

(2) a summary of findings made at each step of the complaint process;

(3) an explanation of the legal basis and reason for a complaint that is dismissed; and

(4) other relevant information.

(b) If a written complaint is referred to the board that the board has the authority to resolve, the board, at least as frequently as quarterly and until final disposition of the

complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) The board by rule shall adopt a form to standardize information concerning complaints made to the board. The board by rule shall prescribe information to be provided to a person when the person files a complaint with the board.

(d) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

Sec. 50.0222. COMPLAINT INVESTIGATION AND DISPOSITION. (a) The board shall adopt rules concerning the investigation of a complaint filed with the department and referred to the board. The rules adopted under this subsection shall:

- (1) distinguish between categories of complaints;
- (2) ensure that complaints are not dismissed without appropriate consideration;
- (3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;
- (4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and
- (5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator.

(b) The board shall dispose of all complaints in a timely manner. The board shall establish a schedule for conducting each phase of a complaint that is under the control of the board not later than the 30th day after the date the complaint is received by the board. The schedule shall be kept in the information file for the complaint and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file and all parties to the complaint must be notified not later than the seventh day after the date the change is made.

(c) The executive director for the board shall notify the board of a complaint that extends beyond the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

Sec. 50.0223. INFORMAL PROCEEDINGS. (a) The board by rule shall adopt procedures governing:

- (1) informal disposition of a contested case under Section 13(e), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes); and
- (2) informal proceedings held in compliance with Section 18(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(b) Rules adopted under this section must provide the complainant and the license or order of recognition holder an opportunity to be heard and must require the presence of a representative of the department's legal staff or the attorney general's office to advise the board or board's employees.

Sec. 50.0224. MONITORING OF LICENSE OR ORDER OF RECOGNITION HOLDER. The board by rule shall develop a system for monitoring license or order of recognition holders' compliance with the requirements of this Act. Rules adopted under this section shall include procedures for monitoring a license or order of recognition holder who is ordered by the board to perform certain acts to ascertain that the license or order of recognition holder performs the required acts and to identify and monitor license or order of recognition holders who represent a risk to the public.

SECTION 26. Section 50.023, Human Resources Code, is amended to read as follows:

Sec. 50.023. EXPIRATION AND RENEWAL. (a) The board [~~department~~] by rule shall adopt a system under which licenses [~~certificates~~] or orders of recognition issued under this chapter expire on various dates during the year, and the dates for renewal shall be adjusted accordingly. A person may renew an expired license [~~On renewal of the certificate~~] or order of recognition by paying to the department before [~~or on~~] the expiration date of the license or order the required [~~the total~~] renewal fee [~~is payable~~].

(b) Not later than 30 days before the expiration date, the *board* [department] shall notify in writing each person *licensed* [certified] of the date of the expiration of a *license* [certificate] or order of recognition issued to *the person at the person's last known address according to the records of the board* [him, the amount of the fee for renewal, and the continuing education provisions that are required for its renewal for one year]. ~~The department shall attempt to obtain from the person a signed receipt confirming receipt of the notice.~~

(c) If a person's *license* or certificate or order of recognition has been expired for [not longer than] 90 days or less, the person may renew the *license* [certificate] or order of recognition by paying to the department the required renewal fee and a fee that is one-half of the examination fee for the *license* [certificate].

(d) If a person's *license* or certificate or order of recognition has been expired for longer than 90 days but less than *one year* [two years], the person may renew the *license* [certificate] or order of recognition by paying to the department all unpaid renewal fees and a fee that is equal to the examination fee for the *license* [certificate].

(e) If a person's *license* or certificate or order of recognition has been expired for *one year* [two years] or longer, the person may not renew the *license* [certificate] or order of recognition. The person may obtain a new *license* [certificate] or order of recognition by submitting to reexamination, if an examination was originally required, and complying with the requirements and procedures for obtaining an original *license* or certificate or order of recognition. *However, the board may renew without reexamination an expired license or certificate or order of recognition of a person who was licensed in this state, moved to another state, and is currently licensed or certified and has been in practice in the other state for the two years preceding application. The person must pay to the department a fee that is equal to the examination fee for the license or order of recognition.*

SECTION 27. Section 50.024, Human Resources Code, is amended to read as follows:

Sec. 50.024. *SPECIALTY* [DEPARTMENT] REGULATION. (a) The *board* [department] may establish, within the scope of social work and this chapter, specifically designed areas of specialty work service or practice for those persons *licensed* [certified] and in good standing as *licensed master* [certified social workers or] social workers. The basis for *board* [department] action in establishing a social work specialty shall be founded in the public interest and necessity and for the purpose of practicing, aiding, and assisting the public in identifying those persons in the professions qualified to practice or perform specialty services.

(b) In establishing a specialty service or practice, the *board* [department] shall define the scope of the specialty, establish standards of special qualifications for the specialty workers or practitioners that will accurately and truly describe the parameters of the specialty and the use of which will be prohibited to those who have not satisfied the *board's* [department's] requirements for qualification in the specialty, adopt rules of conduct for specialty practitioners that will ensure strict compliance with and enforcement of this chapter, and adopt rules for suspending or revoking the order of recognition in the specialty.

(c) A specialty may not be authorized for the private practice of social work except for those persons *licensed* [certified] as *licensed master* [certified] social workers under this chapter meeting the minimum number of years of actual and active social work practice *with appropriate supervision and examination* as determined by the *board* [department]. However, the *board* [department] may not establish any specialty or specialty identification in conflict with any licensing law of this state.

(d) *The board shall establish a social work specialty for those persons qualified for the practice of clinical social work. Use of the title "Advanced Clinical Practitioner" or the initials "A.C.P." shall be restricted to those persons who have qualified for the practice of clinical social work under this chapter. A specialty may not be authorized for the practice of clinical social work except for those persons licensed as licensed master social workers under this chapter meeting the minimum number of years of actual and active social work practice with appropriate supervision and clinical examination as determined by the board.*

(e) *Persons recognized as being qualified for the practice of clinical social work pursuant to the provisions of this section shall, for the purposes of Article 21.52, Insurance Code, as amended, be authorized to use the title "advanced clinical practitioner" or any other title approved by the board and said other title shall mean the same as and be equivalent to, for*

any and all purposes whatsoever, the title "advanced clinical practitioner" as used in Article 21.52, Insurance Code, as amended.

SECTION 28. Section 50.025, Human Resources Code, is amended to read as follows:

Sec. 50.025. LIMITATIONS. After the effective date of an order of the *board* [~~department~~] establishing areas of specialty service or practice, a *licensed master* [~~certified~~] social worker or *licensed* social worker may not make use of a specialty professional identification or title designated by the *board* [~~department~~] until the person has qualified and been recognized by the *board* [~~department~~] as worthy of the public trust in performing services within the scope of the specialty.

SECTION 29. Section 50.026, Human Resources Code, is amended to read as follows:

Sec. 50.026. RECOGNITION ORDER. After a *licensed master* [~~certified~~] social worker [~~or social worker~~] has met all requirements of the *board* [~~department~~] for recognition in a specialty established by the *board* [~~department~~], the *board* [~~department~~] shall recognize the person as so qualified. The recognition shall be evidenced by an order of recognition of specialty of a name, design, and content as the *board* [~~department~~] shall determine, setting forth the full name of the person, official specialty serial number, the signature of the *presiding officer* [~~commissioner and the chairman~~] of the *board* [~~council~~], and the *board's* [~~department's~~] official seal. Issue of the order of recognition of specialty shall be evidence that the person to whom it is issued has been recognized by this state as a specialty social work practitioner under the name or title designated by the *board* [~~department~~].

SECTION 30. Section 50.027, Human Resources Code, is amended to read as follows:

Sec. 50.027. EXPIRATION. The *board* [~~department~~] by rule shall adopt a system under which orders of recognition of specialty practice expire on various dates during the year, and the dates for renewal shall be adjusted accordingly. On renewal of the specialty order of recognition on the expiration date, the total specialty order of recognition renewal fee is payable.

SECTION 31. Section 50.028, Human Resources Code, is amended to read as follows:

Sec. 50.028. VIOLATIONS. A person who violates this chapter or a rule of the *board* [~~department~~] pertaining to the practice of social work is subject to a civil penalty of not less than \$50 nor more than \$500 for each day of violation.

SECTION 32. Section 50.029, Human Resources Code, is amended to read as follows:

Sec. 50.029. *INJUNCTIVE RELIEF* [~~ENFORCEMENT~~]. (a) When it appears that a person has violated or is violating or is threatening to violate this chapter or a rule or order of the *board* [~~department~~] pertaining to social work, the *board* or department may cause a civil suit to be instituted in a district court for injunctive relief to restrain the continued violation or threat of violation or for the assessment and recovery of the civil penalty, as the court may consider proper, or for both injunctive relief and civil penalty. On application for injunctive relief and a finding that a person is violating or threatening to violate this chapter or a rule, variance, or order of the *board* or department, the district court may grant the injunctive relief that the facts warrant.

(b) At the request of the *board* or department, the attorney general shall institute and conduct a suit in the name of this state for injunctive relief or to recover the civil penalty or for both injunctive relief and penalty, as authorized in Subsection (a) [~~of this section~~].

SECTION 33. Section 50.030, Human Resources Code, is amended to read as follows:

Sec. 50.030. *FUNDS* [~~APPROPRIATION~~]. [~~For the biennium ending August 31, 1983, the funds received in the social workers fund are appropriated to the department to be expended by it in the administration of this chapter.~~] To the extent applicable, the general rules of the General Appropriations Act apply to the expenditure of funds under *an* [~~this~~] appropriation.

SECTION 34. Section 50.031, Human Resources Code, is amended to read as follows:

Sec. 50.031. GRANTS. The *board* or department may [~~department is hereby empowered and authorized to~~] take all action necessary to qualify for, accept, and receive funds or grants made available by the United States or an agency of the United States, by this state or any

agency of this state, or by a private foundation or other source for the establishment and maintenance of programs of continuing education.

SECTION 35. Section 50.032, Human Resources Code, is amended to read as follows:

Sec. 50.032. *ENDORSEMENT [RECIPROCITY]*. (a) The board [department] may, on application and payment of the appropriate fee, *grant a provisional license to a [certify as a certified social worker,] social worker[,], or social work associate [a person] who is appropriately certified or licensed by another state, territory, or possession of the United States if the requirements of that state, territory, or possession for the certificate or license are the substantial equivalent of the requirements of this chapter as determined by the board [department]. An applicant for a provisional license under this section must:*

(1) *be licensed in good standing as a social worker or social work associate in another state, the District of Columbia, or a territory of the United States that has license requirements that are substantially equivalent to the requirements of this chapter;*

(2) *have passed a national or other examination recognized by the board relating to social work; and*

(3) *be sponsored by a person licensed by the board under this chapter with whom the provisional license holder may practice under this section.*

(b) *An applicant for a provisional license may be excused from the requirement of Subsection (a)(3) if the board determines that compliance with that subsection constitutes a hardship to the applicant.*

(c) *A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this chapter to the holder of a provisional license under this section if:*

(1) *the provisional license holder passes the examination required by Section 50.014;*

(2) *the board verifies that the provisional license holder has the academic and experience requirements for a license under this chapter; and*

(3) *the provisional license holder satisfies any other license requirements under this chapter.*

(d) *The board must complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued or at the time licenses are issued following the successful completion of the examination, whichever is later.*

(e) [(b)] *The board [department] may waive any licensure [certification] requirement for an applicant with a valid certificate or license from another state with which the State of Texas has a reciprocity agreement.*

SECTION 36. Section 50.033, Human Resources Code, is amended to read as follows:

Sec. 50.033. *EMPLOYMENT OF SOCIAL WORKER*. Nothing in this chapter shall be construed as requiring the employment of a *licensed [certified] social worker, [a social worker, or] a social work associate, or a licensed master social worker* by any public agency or private employer. As used in this section, private employer includes but is not limited to a nonprofit corporation.

SECTION 37. Section 50.034, Human Resources Code, is amended to read as follows:

Sec. 50.034. *CONTINUING EDUCATION*. (a) *The board by rule shall establish mandatory [department may recognize, prepare, or administer] continuing education requirements [programs] for licensed master [certified] social workers, licensed social workers, and social work associates licensed [certified] under this chapter. [Participation in the programs is voluntary].*

(b) *The board by rule shall establish a minimum number of hours of continuing education required to renew a license or order of recognition under this chapter. The board may assess the continuing education needs of license or order of recognition holders and may require license or order of recognition holders to attend continuing education courses specified by the board. The board by rule shall develop a process to evaluate and approve continuing education courses.*

(c) *The board shall identify the key factors for the competent performance by a license or order of recognition holder of the license or order of recognition holder's professional duties. The board shall adopt a procedure to assess a license or order of recognition holder's participation in continuing education programs.*

SECTION 38. Subsection (B), Section 2, Chapter 397, Acts of the 54th Legislature, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), is amended to read as follows:

(B) No policy of accident and sickness insurance shall make benefits contingent upon treatment or examination by a particular practitioner or by particular practitioners of the healing arts hereinafter designated unless such policy contains a provision designating the practitioner or practitioners who will be recognized by the insurer and those who will not be recognized by the insurer. Such provision may be located in the "Exceptions" or "Exceptions and Reductions" provisions, or elsewhere in the policy, or by endorsement attached to the policy, at the insurer's option. In designating the practitioners who will and will not be recognized, such provision shall use the following terms: Doctor of Medicine, Doctor of Osteopathy, Doctor of Dentistry, Doctor of Chiropractic, Doctor of Optometry, Doctor of Podiatry, Audiologist, Speech-language Pathologist, Doctor in Psychology, *Licensed Master [Certified] Social Worker—Advanced Clinical Practitioner*, Licensed Dietitian, Licensed Professional Counselor, and Licensed Marriage and Family Therapist.

For purposes of this Act, such designations shall have the following meanings:

Doctor of Medicine: One licensed by the Texas State Board of Medical Examiners on the basis of the degree "Doctor of Medicine";

Doctor of Osteopathy: One licensed by the Texas State Board of Medical Examiners on the basis of the degree of "Doctor of Osteopathy";

Doctor of Dentistry: One licensed by the State Board of Dental Examiners;

Doctor of Chiropractic: One licensed by the Texas Board of Chiropractic Examiners;

Doctor of Optometry: One licensed by the Texas Optometry Board;

Doctor of Podiatry: One licensed by the State Board of Podiatry Examiners;

Audiologist: One with a master's or doctorate degree in audiology from an accredited college or university and who is certified by the American Speech-language and Hearing Association;

Speech-language Pathologist: One with a master's or doctorate degree in speech pathology or speech-language pathology from an accredited college or university and who is certified by the American Speech-language and Hearing Association;

Doctor in Psychology: One licensed by the Texas State Board of Examiners of Psychologists and certified as a Health Service Provider;

Licensed Master [Certified] Social Worker—Advanced Clinical Practitioner: One licensed [certified] by the Texas State Board of Social Worker Examiners [Department of Human Services] as a Licensed Master [Certified] Social Worker with the order of recognition of Advanced Clinical Practitioner;

Licensed Dietitian: One licensed by the Texas State Board of Examiners of Dietitians;

Licensed Professional Counselor: One licensed by the Texas State Board of Examiners of Professional Counselors; and

Licensed Marriage and Family Therapist: One licensed by the Texas State Board of Examiners of Marriage and Family Therapists.

SECTION 39. Sections 1 and 3, Article 21.52, Insurance Code, as amended by Chapters 242 and 824, Acts of the 72nd Legislature, Regular Session, 1991, are reenacted and amended to read as follows:

Sec. 1. DEFINITIONS. As used in this article:

(a) "health insurance policy" means any individual, group, blanket, or franchise insurance policy, insurance agreement, or group hospital service contract, providing benefits for medical or surgical expenses incurred as a result of an accident or sickness;

(b) "doctor of podiatric medicine" includes D.P.M., podiatrist, doctor of surgical chiropody, D.S.C. and chiropodist;

(c) “doctor of optometry” includes optometrist, doctor of optometry, and O.D.;

(d) “doctor of chiropractic” means a person who is licensed by the Texas Board of Chiropractic Examiners to practice chiropractic;

(e) “licensed dentist” means a person who is licensed to practice dentistry by the State Board of Dental Examiners;

(f) “audiologist” means a person who has received a master’s or doctorate degree in audiology from an accredited college or university and is certified by the American Speech-language and Hearing Association;

(g) “speech-language pathologist” means a person who has received a master’s or doctorate degree in speech-language pathology from an accredited college or university and is certified by the American Speech-language and Hearing Association to restore speech loss or correct a speech impairment;

(h) “*licensed master [certified] social worker—advanced clinical practitioner*” means a person who is *licensed [certified]* by the *Texas State Board of Social Worker Examiners [Department of Human Services]* as a *licensed master [certified] social worker* with the order of recognition of advanced clinical practitioner;

(i) “licensed dietitian” means a person who is licensed by the Texas State Board of Examiners of Dietitians;

(j) “licensed professional counselor” means a person who is licensed by the Texas State Board of Examiners of Professional Counselors; ~~and~~

(k) “psychologist” means a person licensed to practice psychology by the Texas State Board of Examiners of Psychologists; *and*[-]

(l) ~~(k)~~ “licensed marriage and family therapist” means a person who is licensed by the Texas State Board of Examiners of Marriage and Family Therapists.

Sec. 3. SELECTION OF PRACTITIONERS. Any person who is issued, who is a party to, or who is a beneficiary under any health insurance policy delivered, renewed, or issued for delivery in this state by any insurance company, association, or organization to which this article applies may select a licensed doctor of podiatric medicine, a licensed dentist, or a doctor of chiropractic to perform the medical or surgical services or procedures scheduled in the policy which fall within the scope of the license of that practitioner, a licensed doctor of optometry to perform the services or procedures scheduled in the policy which fall within the scope of the license of that doctor of optometry, an audiologist to measure hearing for the purpose of determining the presence or extent of a hearing loss and to provide aural rehabilitation services to a person with a hearing loss if those services or procedures are scheduled in the policy, a speech-language pathologist to evaluate speech and language and to provide habilitative and rehabilitative services to restore speech or language loss or to correct a speech or language impairment if those services or procedures are scheduled in the policy, a *licensed master [certified] social worker—advanced clinical practitioner* to provide the services that fall within the scope of the license of such *licensed [certified] practitioner* and which are specified as services within the terms of the policy of insurance, including the provision of direct, diagnostic, preventive, or clinical services to individuals, families, and groups whose functioning is threatened or affected by social or psychological stress or health impairment, if those services or procedures are scheduled in the policy, a licensed dietitian including a provisional licensed dietitian under a licensed dietitian’s supervision to provide the services that fall within the scope of the license of that dietitian if those services are scheduled in the policy, a licensed professional counselor to provide the services that fall within the scope of the license of that professional if those services are scheduled in the policy, or a licensed marriage and family therapist to provide the services that fall within the scope of the license of that professional if those services are scheduled in the policy, or a psychologist to perform the services or procedures scheduled in the policy that fall within the scope of the license of that psychologist. The services of a *licensed master [certified] social worker—advanced clinical practitioner*, licensed professional counselor, or licensed marriage and family therapist that are included in this Act may require a professional recommendation by a doctor of medicine or doctor of osteopathy unless the health insurance policy terms do not require such a recommendation. The payment or reimbursement by the insurance company, association, or organization for those services or procedures in accordance with the

payment schedule or the payment provisions in the policy shall not be denied because the same were performed by a licensed doctor of podiatric medicine, a licensed doctor of optometry, a licensed doctor of chiropractic, a licensed dentist, an audiologist, a speech-language pathologist, a *licensed master* [certified] social worker—advanced clinical practitioner, a licensed dietitian, a licensed professional counselor, or a licensed marriage and family therapist, or a psychologist. There shall not be any classification, differentiation, or other discrimination in the payment schedule or the payment provisions in a health insurance policy, nor in the amount or manner of payment or reimbursement thereunder, between scheduled services or procedures when performed by a doctor of podiatric medicine, a doctor of optometry, a doctor of chiropractic, a licensed dentist, an audiologist, a speech-language pathologist, a *licensed master* [certified] social worker—advanced clinical practitioner, a licensed dietitian, a licensed professional counselor, or a licensed marriage and family therapist, or a psychologist which fall within the scope of his license or certification and the same services or procedures when performed by any other practitioner of the healing arts whose services or procedures are covered by the policy. Any provision in a health insurance policy contrary to or in conflict with the provisions of this article shall, to the extent of the conflict, be void, but such invalidity shall not affect the validity of the other provisions of this policy. Any presently approved policy form containing any provision in conflict with the requirements of this Act shall be brought into compliance with this Act by the use of riders and endorsements which have been approved by the State Board of Insurance or by the filing of new or revised policy forms for approval by the State Board of Insurance.

SECTION 40. (a) As soon as possible after the effective date of this Act, the governor shall appoint the initial members of the Texas State Board of Social Worker Examiners in accordance with this Act. In making the initial appointments, the governor shall designate members to serve terms as follows:

(1) one member certified as a certified social worker and eligible for licensure as a “licensed master social worker” who holds an order of recognition as an “advanced clinical practitioner” under this Act, one member certified as a social work associate and eligible for licensure as a social work associate under this Act, and one public member to serve for the terms expiring January 31, 1995;

(2) one member certified as a certified social worker and eligible for licensure as a “licensed master social worker” who holds an order of recognition as an “advanced clinical practitioner” under this Act, one member certified as a social worker and eligible for licensure as a licensed social worker under this Act, and one public member to serve for the terms expiring January 31, 1997; and

(3) one member certified as a certified social worker and eligible for licensure as a “licensed master social worker” who may or may not hold an order of recognition as an “advanced clinical practitioner” under this Act, one member certified as a social worker and eligible for licensure as a licensed social worker under this Act, and one public member to serve for the terms expiring January 31, 1999.

(b) The Texas State Board of Social Worker Examiners may not take any action and is not created until the day after the date that the last appointee to the initial board takes office. On the date of its creation, the board assumes its functions and:

(1) the Council for Social Work Certification is abolished;

(2) the obligations, rights, contracts, equipment, other property, personnel, and records of and the unspent money appropriated to or for the Council for Social Work Certification in the social worker fund are transferred to and for the Texas Department of Health;

(3) the rules of the Council for Social Work Certification and Department of Human Services regarding the certification or licensure, recognition, and regulation of social workers are continued in effect as rules of the Texas State Board of Social Worker Examiners until superseded by rule of the new board;

(4) the certificates and orders of recognition in effect that were issued by the Council for Social Work Certification and the Department of Human Services are continued in effect as licenses and orders of recognition of the Texas State Board of Social Worker Examiners as provided in this section;

(5) a complaint or investigation pending before the Council for Social Work Certification or the Department of Human Services is transferred without change in status to the Texas State Board of Social Worker Examiners;

(6) a contested case pending before the Council for Social Work Certification or the Department of Human Services is transferred to the Texas State Board of Social Worker Examiners, and actions taken in the proceeding are treated as if taken by the Texas State Board of Social Worker Examiners; and

(7) any reference in a law to the Council for Social Work Certification means the Texas State Board of Social Worker Examiners.

(c) In order to effect a transition from the certification of social workers to licensure:

(1) any qualified person certified in good standing as of August 31, 1993, under the Social Work Certification Act as a "certified social worker" shall, on the date of renewal of the certificate and subsequent renewals, receive a license as a "licensed master social worker" without examination under the requirements in effect on or before August 31, 1993;

(2) any qualified person certified in good standing as of August 31, 1993, under the Social Work Certification Act as a "social worker" shall, on the date of renewal of the certificate and subsequent renewals, receive a license as a "licensed social worker" without examination under the requirements in effect on or before August 31, 1993;

(3) any qualified person certified in good standing as of August 31, 1993, under the Social Work Certification Act as a "social work associate" shall, on the date of renewal of the certificate and subsequent renewals, receive a license as a "social work associate" without examination under the requirements in effect on or before August 31, 1993;

(4) any qualified person certified in good standing as of August 31, 1993, under the Social Work Certification Act as a "certified social worker—advanced clinical practitioner" shall, on the date of renewal of the order of recognition and subsequent renewals, be recognized as being qualified for the private, independent practice of social work under this Act, without examination under the requirements in effect on or before August 31, 1993;

(5) any qualified person certified in good standing as of August 31, 1993, under the Social Work Certification Act as a "certified social worker—advanced clinical practitioner" shall, on the date of renewal of the order of recognition and subsequent renewals, be recognized as being qualified for the practice of clinical social work and the use of the authorized specialty designation evidencing same under this Act without examination, and on application pursuant to the provisions of this Act shall be so recognized;

(6) any person with an application on file for certification as a social work associate with the Department of Human Services as of August 31, 1993, and who completes the requirements in effect on the day the application was submitted shall be licensed as a social work associate;

(7) any person with an application on file for certification as a social worker with the Department of Human Services as of August 31, 1993, and who completes the requirements in effect on the day the application was submitted shall be licensed as a licensed social worker;

(8) any person with an application on file for certification as a certified social worker with the Department of Human Services as of August 31, 1993, and who completes the requirements in effect on the day the application was submitted shall be licensed as a licensed master social worker; and

(9) any qualified person who satisfies the requirements of Section 17 of this Act and who has been continuously engaged in the teaching of social work in an institution of higher education in this or another state for not less than five years immediately prior to the effective date of this Act shall, on application filed with the board not later than September 1, 1994, be licensed as a licensed master social worker without examination.

(d) The Texas State Board of Social Worker Examiners shall adopt rules under this Act not later than March 1, 1994.

SECTION 41. On or after January 1, 1994, the State Office of Administrative Hearings shall assume responsibility for hearings held with respect to contested cases arising under Chapter 50, Human Resources Code, and its subsequent amendments. The Texas State Board of Social Worker Examiners and the chief administrative law judge of the State Office

of Administrative Hearings may agree to transfer contested cases pending before the board to the State Office of Administrative Hearings before January 1, 1994.

SECTION 42. This Act takes effect September 1, 1993.

SECTION 43. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 7, 1993, by a viva-voce vote; the Senate concurred in House amendments on May 25, 1993, by a viva-voce vote; passed the House, with amendments, on May 21, 1993, by a non-record vote.

Approved June 15, 1993.

Effective Sept. 1, 1993.