

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 349

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES JAMES, Kelly, Elton, Croft

Introduced: 3/4/98

Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting the use of the title 'social worker' without a license; relating
2 to social workers, licensure of social workers, and the Board of Clinical Social
3 Work Examiners; and providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** PURPOSE. It is the purpose of this Act to promote, preserve, and protect the
6 public health, safety, and welfare through the licensure of social workers and regulation of the
7 use of the title "social worker."

8 * **Sec. 2.** AS 08.01.010(10) is amended to read:

9 (10) Board of [CLINICAL] Social Work Examiners (AS 08.95.010);

10 * **Sec. 3.** AS 08.01.050(d)(1) is amended to read:

11 (1) Board of [CLINICAL] Social Work Examiners;

12 * **Sec. 4.** AS 08.03.010(c)(6) is amended to read:

13 (6) Board of [CLINICAL] Social Work Examiners (AS 08.95.010) --

14 June 30, 2005;

1 * **Sec. 5.** AS 08.95.010(a) is amended to read:

2 (a) There is created the Board of [CLINICAL] Social Work Examiners
3 composed of five members, **as follows: one member** [. FOUR MEMBERS MUST
4 BE PERSONS] licensed under this chapter **as a baccalaureate social worker; one**
5 **member licensed under this chapter as a master social worker; two members**
6 **licensed under this chapter as clinical social workers; and one public member who**
7 **has never been licensed under this chapter.** At [, INCLUDING AT] least one **of**
8 **the licensed members must be a** person who is not an employee of a federal, state,
9 or local government or of a private nonprofit organization that is exempt from federal
10 income tax. [ONE MEMBER MUST BE A PUBLIC MEMBER.]

11 * **Sec. 6.** AS 08.95.020 is amended to read:

12 **Sec. 08.95.020. Board meetings.** The board shall hold at least **two meetings**
13 [ONE MEETING] each year. The board may hold additional meetings at the call of
14 the chair or of a majority of the board members.

15 * **Sec. 7.** AS 08.95.030 is amended to read:

16 **Sec. 08.95.030. Duties.** The board shall

17 (1) issue licenses to qualified applicants;

18 (2) submit an annual report of its proceedings to the department; **the**
19 **report must include the information required under AS 08.01.070(10) and other**
20 **information as requested by the department;**

21 (3) [AFTER A HEARING, IMPOSE DISCIPLINARY SANCTIONS
22 ON A PERSON WHO VIOLATES THIS CHAPTER OR THE REGULATIONS OR
23 ORDERS OF THE BOARD;

24 (4)] adopt regulations

25 **(A)** requiring that continuing education requirements be satisfied
26 before a license is renewed;

27 **(B)** **establishing a code of professional ethics that a licensee**
28 **must observe;**

29 **(C)** **establishing standards of practice for social work**
30 **performed by a licensee; and**

31 **(D)** **establishing standards for supervisors and for**

1 supervision that is required for licensure under AS 08.95.110(a);

2 (4) order a licensed social worker to submit to a reasonable
 3 physical or mental examination if the board has credible evidence that the social
 4 worker's capacity to practice safely is in question;

5 (5) adopt regulations necessary to carry out the **duties and** purpose of
 6 this chapter.

7 * **Sec. 8.** AS 08.95.040(a) is amended to read:

8 (a) The board shall adopt continuing education requirements for persons
 9 licensed under this chapter. Continuing education requirements **that must be satisfied**
 10 **before the first biennial renewal of a person's license** must include a minimum of
 11 45 hours [PER BIENNIUM] of education or training with a minimum of **three hours**
 12 **in professional ethics**, six hours in substance abuse, and six hours in cross-cultural
 13 education **that includes issues relating to Alaska** [EMPHASIZING ALASKAN]
 14 Natives. **After the first biennial renewal of a license, continuing education**
 15 **requirements for that person's license renewal must include three hours in**
 16 **professional ethics, six hours in substance abuse, and six hours in cross-cultural**
 17 **education, three hours of which must include issues relating to Alaska Natives.**

18 * **Sec. 9.** AS 08.95 is amended by adding a new section to article 1 to read:

19 **Sec. 08.95.050. Disciplinary sanctions.** The board may impose a disciplinary
 20 sanction under AS 08.01.075 if it finds that a licensee

21 (1) secured a license through deceit, fraud, or intentional
 22 misrepresentation;

23 (2) engaged in deceit, fraud, or intentional misrepresentation in the
 24 course of providing professional services or in the course of professional activities;

25 (3) advertised professional services in a false or misleading manner;

26 (4) violated this chapter, a regulation adopted under this chapter, or an
 27 order issued by the board;

28 (5) is the subject of a disciplinary sanction or other adverse licensing
 29 action in another jurisdiction relating to a social work license;

30 (6) failed to report to the board that the licensee is or was the subject
 31 of a disciplinary proceeding or other adverse licensing action in another jurisdiction

1 relating to a social work license;

2 (7) has been convicted of a felony or has been convicted of a
3 misdemeanor that reflects on the licensee's ability to practice competently and
4 professionally;

5 (8) intentionally or negligently engaged in, or permitted persons under
6 the licensee's supervision to engage in, client care that did not conform to minimum
7 professional standards or to the standards of practice adopted by the board regardless
8 of whether actual injury to the client occurred;

9 (9) continued to practice after becoming unfit due to

10 (A) professional incompetence;

11 (B) failure to keep informed of current professional practices;

12 (C) addiction to or severe dependency on alcohol or other drugs
13 that impairs the ability to practice safely; or

14 (D) physical or mental disability;

15 (10) engaged in lewd, immoral, or unethical conduct in connection with
16 the delivery of professional services to clients; or

17 (11) engaged in sexual contact with a person during the time period
18 that the person was a client or within two years after termination of the licensee's
19 professional relationship with the client.

20 * **Sec. 10.** AS 08.95.100(a) is amended to read:

21 (a) A person who practices clinical social work without obtaining a license
22 **under this chapter to practice clinical social work** [ISSUED BY THE BOARD
23 AND WITHOUT QUALIFYING FOR AN EXEMPTION FROM THIS CHAPTER]
24 is guilty of a class B misdemeanor **unless the person is**

25 **(1) licensed under a provision of this title that is outside this**
26 **chapter, is practicing within the scope of that license, and is not representing to**
27 **the public by title or description of service as being engaged in the practice of**
28 **clinical social work; or**

29 **(2) practicing clinical social work as a student in a social work**
30 **program approved by the board.**

31 * **Sec. 11.** AS 08.95.100(b) is amended to read:

1 (b) A person **is guilty of a class B misdemeanor if the person** [WHO] is not
2 licensed

3 **(1) under this chapter and uses the title "social worker" unless the**
4 **person is exempt from licensure under AS 08.95.911;**

5 **(2) as a clinical social worker under this chapter [,] or has a clinical**
6 **social worker** [WHOSE] license **that** is suspended, [OR] revoked, or [WHOSE
7 LICENSE HAS] lapsed, **and the person**

8 **(A)** [WHO] uses in connection with the person's name the
9 words or letters "L.C.S.W.," "Licensed Clinical Social Worker," or other letters,
10 words, or insignia indicating or implying that the person is a licensed clinical
11 social worker; [,] or

12 **(B)** [WHO] in any way, orally [,] or in writing, directly or by
13 implication, holds out as a licensed clinical social worker;

14 **(3) as a master social worker under this chapter or has a master**
15 **social worker license that is suspended, revoked, or lapsed, and the person**

16 **(A) uses in connection with the person's name the words or**
17 **letters "L.M.S.W.," "Licensed Master Social Worker," or other letters,**
18 **words, or insignia indicating or implying that the person is a licensed**
19 **master social worker; or**

20 **(B) in any way, orally or in writing, directly or by**
21 **implication, holds out as being a licensed master social worker; or**

22 **(4) as a baccalaureate social worker under this chapter or has a**
23 **baccalaureate social worker license that is suspended, revoked, or lapsed, and the**
24 **person**

25 **(A) uses in connection with the person's name the words or**
26 **letters "L.B.S.W.," "Licensed Baccalaureate Social Worker," or other**
27 **letters, words, or insignia indicating or implying that the person is a**
28 **licensed baccalaureate social worker; or**

29 **(B) in any way, orally or in writing, directly or by**
30 **implication, holds out as being a licensed baccalaureate social worker** [IS
31 GUILTY OF A CLASS B MISDEMEANOR].

1 * **Sec. 12.** AS 08.95.110 is amended to read:

2 **Sec. 08.95.110. License requirements [TO PRACTICE CLINICAL**
3 **SOCIAL WORK].** **(a)** The board shall issue a license to practice clinical social
4 work to a person who

5 (1) has received a master's degree or a doctoral degree in social work
6 from a college or university **approved by the board** [ACCREDITED BY THE
7 COUNCIL ON SOCIAL WORK EDUCATION];

8 (2) has completed, within the 10 years before application for licensure
9 and under the supervision of a licensed clinical social worker, licensed psychologist,
10 **or** licensed psychiatrist [, OR, WITH APPROVAL OF THE BOARD, A CLINICAL
11 SOCIAL WORKER WHO IS EXEMPT FROM THIS CHAPTER UNDER
12 AS 08.95.910,] either

13 (A) a minimum of two years of continuous full-time
14 employment in postgraduate clinical social work; or

15 (B) a minimum of 3,000 hours of less than full-time
16 employment in a period of not less than two years in postgraduate clinical
17 social work; [AT LEAST 100 HOURS OF SUPERVISION REQUIRED
18 UNDER THIS PARAGRAPH SHALL BE CONDUCTED BY A QUALIFIED
19 PERSON APPROVED BY THE BOARD;]

20 (3) **is of good moral character;**

21 (4) is in good professional standing and is fit to practice social work
22 as determined by the board;

23 (5) [(4)] has provided three professional references **that are acceptable**
24 **to the board, including one reference from a person who was the licensee's**
25 **employer while the licensee practiced social work if the licensee was previously**
26 **employed to practice social work, and one reference from a resident of this state**
27 **if the applicant resided in this state for the three months immediately preceding**
28 **application for the license;**

29 (6) [(5)] has satisfactorily completed the examination given by the
30 board **for clinical social worker licensing;** and

31 (7) [(6)] has paid required fees.

1 * **Sec. 13.** AS 08.95.110 is amended by adding new subsections to read:

2 (b) The board shall issue a license authorizing use of the title "master social
3 worker" to a person who

4 (1) satisfies the requirements of (a)(1), (3) - (5), and (7) of this section;

5 and

6 (2) has satisfactorily completed the examination given by the board for
7 master social worker licensing.

8 (c) The board shall issue a license authorizing use of the title "baccalaureate
9 social worker" to a person who

10 (1) satisfies the requirements of (a)(3) - (5) and (7) of this section;

11 (2) has received a bachelor's degree in social work from a college or
12 university approved by the board; and

13 (3) has satisfactorily completed the examination given by the board for
14 baccalaureate social worker licensing.

15 * **Sec. 14.** AS 08.95.120 is amended to read:

16 **Sec. 08.95.120. Licensing by credentials.** The board shall issue a license to
17 practice clinical social work [WITHOUT EXAMINATION] if the applicant

18 (1) holds a current license to practice clinical social work in another
19 jurisdiction that, at the time of original issuance of the license, had requirements for
20 licensure equal to or more stringent than those of this state;

21 (2) is not the subject of an unresolved complaint or disciplinary action
22 before a regulatory authority or a professional social work association;

23 (3) has not failed the examination for a license to practice clinical
24 social work in this state;

25 (4) **has satisfactorily completed the examination given by the board**
26 **for clinical social worker licensing;**

27 (5) **has provided three professional references that are acceptable**
28 **to the board, including one reference from a person who was the licensee's**
29 **employer while the licensee practiced social work if the licensee was previously**
30 **employed to practice social work, and one reference from a resident of this state**
31 **if the applicant resided in this state for the three months immediately preceding**

application for the license;

(6) has not had a license to practice clinical social work revoked or suspended in this state or another jurisdiction;

(7) [(5)] has submitted proof of continued competency satisfactory to the board; and

(8) [(6)] has paid required fees.

* **Sec. 15.** AS 08.95.120 is amended by adding a new subsection to read:

(b) The board shall issue a license to use the title "master social worker" or "baccalaureate social worker," as applicable, to an applicant who

(1) holds a current similar license from another jurisdiction that, at the time of original issuance of the license, had requirements for the license that were equal to or more stringent than those of this state;

(2) is not the subject of an unresolved complaint or disciplinary action before a regulatory authority or a professional social work association;

(3) has not failed the master or baccalaureate social work examination, as applicable, in this state;

(4) has satisfactorily completed the examination given by the board for master or baccalaureate social workers, as applicable;

(5) has provided three professional references that are acceptable to the board, including one reference from a person who was the licensee's employer while the licensee practiced social work if the licensee was previously employed to practice social work, and one reference from a resident of this state if the applicant resided in this state for the three months immediately preceding application for the license;

(6) has not had a license to practice social work or to use the title "social worker" revoked or suspended in this state or another jurisdiction;

(7) has submitted proof of continued competency satisfactory to the board; and

(8) has paid required fees.

* **Sec. 16.** AS 08.95.900 is amended to read:

Sec. 08.95.900. Confidentiality of communication. (a) A licensed [CLINICAL] social worker, **and the social workers' employees or other persons**

1 **who have access to the social worker's records**, may not reveal to another person
 2 a communication made to the licensee by a client about a matter concerning which the
 3 client has employed the licensee in a professional capacity. This section does not
 4 apply to

5 (1) a case conference with other **licensed** [CLINICAL] social workers
 6 or with **other licensed health care or mental health professionals**
 7 [PSYCHOLOGISTS, PSYCHOLOGICAL ASSOCIATES, PHYSICIANS, OR
 8 SURGEONS];

9 (2) the release of information which the client in writing authorized the
 10 licensee to reveal; [OR]

11 (3) **information released to the board as part of a disciplinary or**
 12 **other proceeding by the board;**

13 (4) information revealed as part of the discovery of evidence related to
 14 a court proceeding or introduced in evidence in a court proceeding;

15 (5) **communications relevant to the physical, mental, or emotional**
 16 **condition of the client in a proceeding in which the condition of the client is an**
 17 **element of the claim or defense of the client, of a party claiming through or under**
 18 **the client, or of a person raising the client's condition as an element of the**
 19 **person's own case, or of a person claiming as a beneficiary of the client through**
 20 **a contract to which the client is or was a party; or, after the client's death, in a**
 21 **proceeding in which a party puts the condition of the client in issue;**

22 (6) **a communication to a potential victim or to law enforcement**
 23 **officers where a threat of imminent serious physical harm to an identified victim**
 24 **has been made by a client; or**

25 (7) **a communication that indicates that another health care or**
 26 **mental health professional has committed an act of unprofessional or unlawful**
 27 **conduct in the provision of health or mental health services if the communication**
 28 **is disclosed by the social worker only to the licensing board with jurisdiction over**
 29 **the type of person who allegedly committed the unprofessional or unlawful**
 30 **conduct and the disclosure is made in good faith.**

31 (b) Notwithstanding (a) of this section, a licensed [CLINICAL] social worker

1 shall report incidents of child abuse or neglect as required by AS 47.17.020 **and**
 2 **incidents of harm to vulnerable adults as required by AS 47.24.010.**

3 * **Sec. 17.** AS 08.95.900 is amended by adding a new subsection to read:

4 (c) Information obtained by the board under (a)(3) and (7) of this section is
 5 confidential and is not a public record for the purposes of AS 09.25.110 - 09.25.140.

6 * **Sec. 18.** AS 08.95 is amended by adding a new section to read:

7 **Sec. 08.95.905. Immunity relating to certain reports.** A person licensed
 8 under this chapter who, in good faith and without malice, discloses to the appropriate
 9 licensing board that another health care or mental health professional has allegedly
 10 committed an act of unprofessional or unlawful conduct in the provision of health or
 11 mental health services is immune from civil liability arising out of the disclosure.

12 * **Sec. 19.** AS 08.95 is amended by adding new sections to read:

13 **Sec. 08.95.911. Exemption.** (a) Notwithstanding AS 08.95.100(b)(1), a
 14 person who, on June 30, 2000, was employed or providing services under the title
 15 "social worker" may, without obtaining a license under this chapter, continue to use
 16 the title "social worker" while the person is employed by the same employer or, if self-
 17 employed, while providing the same scope of services, as on June 30, 2000.

18 (b) The exemption under (a) of this section does not authorize use of the title
 19 "social worker" outside the context of the person's employment or self-employment,
 20 as applicable.

21 (c) For purposes of this section, a person who is employed by

22 (1) the federal government is not considered to have changed employers
 23 if the person begins employment with a different agency of the federal government;

24 (2) the state is not considered to have changed employers if the person
 25 begins employment with a different agency of the state;

26 (3) a municipality is not considered to have changed employers if the
 27 person begins employment with a different agency of the municipality.

28 **Sec. 08.95.920. Unified occupation.** For purposes of AS 08.01.065, all
 29 persons licensed under this chapter are considered to be engaged in the same
 30 occupation.

31 * **Sec. 20.** AS 08.95.990(1) is amended to read:

1 (1) "board" means the Board of [CLINICAL] Social Work Examiners;

2 * **Sec. 21.** AS 08.95.990(2) is amended to read:

3 (2) "[CLINICAL] social work" means a service in which a special
4 knowledge of social resources, human capabilities, and the part that unconscious
5 motivation plays in determining behavior is directed, through the application of social
6 work principles and methods, at helping individuals to achieve more adequate,
7 satisfying, and productive social adjustments;

8 * **Sec. 22.** AS 08.95.990(5) is amended to read:

9 (5) "social work principles and methods" include counseling [AND
10 USING TECHNIQUES OF APPLIED PSYCHOTHERAPY] of a nonmedical nature
11 to assist in the [DIAGNOSIS AND] treatment of mental and emotional conditions of
12 individuals, families, and groups; providing information and referral services; providing
13 or arranging for the provision of social services; explaining and interpreting the
14 psychosocial aspects in the situations of individuals, families, or groups; helping
15 communities to organize, provide, or improve social and health services; and doing
16 research related to social work.

17 * **Sec. 23.** AS 08.95.990 is amended by adding a new paragraph to read:

18 (6) "clinical social work" means the diagnosis of psychiatric disorders
19 and the use of techniques of applied psychotherapy of a nonmedical nature while
20 practicing social work.

21 * **Sec. 24.** AS 47.17.020(a) is amended to read:

22 (a) The following persons who, in the performance of their occupational duties,
23 have reasonable cause to suspect that a child has suffered harm as a result of child
24 abuse or neglect shall immediately report the harm to the nearest office of the
25 department:

26 (1) practitioners of the healing arts;

27 (2) school teachers and school administrative staff members of public
28 and private schools;

29 (3) [SOCIAL WORKERS;

30 (4)] peace officers [,] and officers of the Department of Corrections;

31 (4) [(5)] administrative officers of institutions;

- 1 (5) [(6)] child care providers;
- 2 (6) [(7)] paid employees of domestic violence and sexual assault
- 3 programs, and crisis intervention and prevention programs as defined in AS 18.66.990;
- 4 (7) [(8)] paid employees of an organization that provides counseling or
- 5 treatment to individuals seeking to control their use of drugs or alcohol.

6 * **Sec. 25.** AS 47.17.290(13) is amended to read:

7 (13) "practitioner of the healing arts" includes chiropractors, mental

8 health counselors, social workers, dental hygienists, dentists, health aides, nurses,

9 nurse practitioners, occupational therapists, occupational therapy assistants,

10 optometrists, osteopaths, naturopaths, physical therapists, physical therapy assistants,

11 physicians, physician's assistants, psychiatrists, psychologists, psychological associates,

12 audiologists licensed under AS 08.11, hearing aid dealers licensed under AS 08.55,

13 marital and family therapists licensed under AS 08.63, religious healing practitioners,

14 acupuncturists, and surgeons;

15 * **Sec. 26.** AS 08.95.100(c) is repealed July 1, 2000.

16 * **Sec. 27.** AS 08.95.910 is repealed September 1, 1999.

17 * **Sec. 28.** TRANSITIONAL LICENSING. (a) The Board of Social Work Examiners shall

18 issue a license authorizing use of the title "baccalaureate social worker" to a person who, by

19 July 1, 2000,

20 (1) applies for the license;

21 (2) satisfies the requirements of AS 08.95.110(c)(1) and (3), as enacted by

22 sec. 13 of this Act; and

23 (3) submits evidence satisfactory to the board of having used the title "social

24 worker" during the performance of employment duties or the provision of services for

25 compensation before applying for the license under this section.

26 (b) A person licensed under this section is considered to be licensed under AS 08.95.

27 * **Sec. 29.** TRANSITIONAL BOARD MEMBERSHIP PROVISIONS. Notwithstanding

28 AS 08.95.010(a), as amended by sec. 5 of this Act, a person who is a member of the Board

29 of Clinical Social Work Examiners on January 1, 1999, may continue to serve the remainder

30 of the person's term on the board unless removed under other law. The governor shall

1 implement AS 08.95.010(a), as amended by sec. 5 of this Act, as seats on the board become
2 vacant.

3 * **Sec. 30.** REGULATIONS. The Board of Social Work Examiners shall begin the process
4 of developing regulations to implement this Act. The regulations take effect under AS 44.62
5 but not before the effective date of the laws that are implemented by the regulations.

6 * **Sec. 31.** Section 30 of this Act takes effect immediately.

7 * **Sec. 32.** AS 08.95.100(a) and (b)(2) - (4), as amended by secs. 10 and 11 of this Act,
8 take effect September 1, 1999.

9 * **Sec. 33.** AS 08.95.100(b)(1), enacted by sec. 11 of this Act, and AS 08.95.911, enacted
10 by sec. 19 of this Act take effect July 1, 2000.

11 * **Sec. 34.** Except as provided in secs. 31 - 33 of this Act, this Act takes effect January 1,
12 1999.