

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S3/2/99

A Bill

Act 1122 of 1999
SENATE BILL 662

5 By: Senator Mahony
6
7

For An Act To Be Entitled

9 "AN ACT TO PLACE THE LAWS GOVERNING SOCIAL WORKERS
10 UNDER ARKANSAS CODE TITLE 17, CHAPTER 103; AND FOR
11 OTHER PURPOSES. "

Subtitle

13 "TO PLACE THE LAWS GOVERNING SOCIAL
14 WORKERS UNDER ARKANSAS CODE TITLE 17,
15 CHAPTER 103. "
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 17, Chapter 103 is hereby created and
22 shall read as follows:

23 Subchapter 1.

24 General Provisions.

25
26 17-103-101. Title.

27 This chapter shall be known and may be cited as the "Social Work
28 Licensing Act".

29
30 17-103-102. Purpose.

31 Since the profession of social work significantly affects the lives of
32 the people of this state, it is the purpose of this chapter to protect the
33 public by setting standards of qualification, training, and experience for
34 those who seek to represent themselves to the public as social workers and by
35 promoting high standards of professional performance for those engaged in the
36 practice of social work.

1 17-103-103. Definitions.

2 As used in this chapter, unless the context otherwise requires:

3 (1) "Board" means the Social Work Licensing Board;

4 (2) "Practice of social work" means a professional service which
5 effects change in social conditions, human behavior, and emotional responses
6 of individuals, couples, families, groups, and organizations. "Social work
7 practice" can only be performed with specialized knowledge and skills related
8 to human development, the potential for human growth, the availability of
9 social resources, and the knowledge of social systems. The disciplined
10 application of social work knowledge and skills includes, but is not
11 restricted to, the following:

12 (A) Counseling with individuals, couples, families, and
13 groups for purposes of assessment and enhancement of the problem-solving and
14 coping capacities of people; and

15 (B) The application of social work knowledge and skills in
16 social planning, administration, and research.

17
18 17-103-104. Exemptions.

19 (a) Nothing in this chapter shall be construed to prevent members of
20 the clergy, Christian Science practitioners, and licensed professionals such
21 as physicians, nurses, psychologists, counselors, and attorneys from doing
22 work within the standards and ethics of their respective professions,
23 providing they do not hold themselves out to the public by any title or
24 description of services as being social workers as defined under this chapter.

25 (b) Nothing in this chapter shall be construed to limit or prohibit the
26 employment by licensed hospitals in this state of persons who perform services
27 commonly within the definition of social work or practices performed by social
28 workers, so long as the services are performed within the course of and scope
29 of their employment as an employee of the hospital. Nor shall this chapter
30 require any regular employee of a licensed hospital in this state to be
31 licensed as a licensed social worker, a licensed master social worker, or a
32 licensed certified social worker as a condition of employment by or
33 performance of services as a social worker while employed in a licensed
34 hospital in this state.

35 (c) Nothing in this chapter shall be construed as limiting the
36 activities and services of a graduate or undergraduate student for the

1 practice of social work from an accredited educational institution.

2 (d)(1) Nothing in this chapter shall be construed to require any person
3 to be licensed as a licensed social worker who engaged in the practice of a
4 specialty as an employee of any agency or department of the state in the job
5 classifications of family service worker and social service worker, but only
6 when engaged in that practice as an employee of such an agency or department.

7 (2) It is the intent of the General Assembly to restrict
8 licensure to those individuals who are represented to be social workers. It is
9 not the intent of the General Assembly to license persons such as state
10 employees in the job classifications of social service workers and family
11 service workers.

12
13 17-103-105. Violations.

14 The following acts shall constitute violations of this chapter:

15 (1) Representing oneself to be a social worker, licensed social
16 worker, licensed master social worker, or licensed certified social worker
17 unless licensed as such under this chapter or under titles or descriptions
18 offering to give or giving services to individuals, groups, agencies, or
19 corporations without a license;

20 (2) Entering the private independent practice of social work
21 without being certified by the board;

22 (3) Obtaining or attempting to obtain a license or renewal
23 thereof by bribery or fraudulent representation; and

24 (4) Knowingly making a false statement on any form promulgated by
25 the board in accordance with this chapter or the rules and regulations
26 promulgated hereunder.

27
28 17-103-106. Penalties and enforcement.

29 (a) Violations of this chapter shall constitute Class A misdemeanors.

30 (b) The board shall assist the prosecuting attorney in the enforcement
31 of this chapter, and any member of the board may present evidence of a
32 violation to the appropriate prosecuting attorney.

33
34 17-103-107. Privileged communications.

35 No licensed certified social worker, licensed master social worker, or
36 licensed social worker or his secretary, stenographer, or clerk may disclose

1 any information he may have acquired from persons consulting him in his
2 professional capacity to those persons except:

3 (1) With the written consent of the person or persons or, in the
4 case of death or disability, of his own legal guardian, other person
5 authorized to sue, or the beneficiary of an insurance policy on his life,
6 health, or physical condition;

7 (2) That a licensed certified social worker, licensed master
8 social worker, or licensed social worker shall not be required to treat as
9 confidential a communication that reveals the contemplation of a crime or a
10 harmful act;

11 (3) When the person is a minor under the laws of this state and
12 the information acquired by the licensed certified social worker, licensed
13 master social worker, or licensed social worker indicates that the minor was
14 the victim or subject of a crime, the licensed certified social worker,
15 licensed master social worker, or the licensed social worker may be required
16 to testify fully in any examination, trial, or other proceedings in which the
17 commission of such a crime is the subject of inquiry; or

18 (4) When the person waives the privilege by bringing charges
19 against the licensed certified social worker, licensed master social worker,
20 or the licensed social worker.

21
22 17-103-108. Privileged communications - Not repealed.

23 Notwithstanding the provisions of this section or any other law, the
24 privileged communications provisions codified at § 17-103-107 are not
25 repealed.

26
27 Subchapter 2.

28 Social Work Licensing Board.

29
30 17-103-201. Creation - Members.

31 (a) There is created the Arkansas Social Work Licensing Board.

32 (b) All members of the board shall be appointed by the Governor with
33 the consent of the Senate, for terms of three (3) years, and shall be
34 residents of the state and citizens of the United States.

35 (c) The board shall have nine (9) members, with no fewer than two (2)
36 blacks, and shall be composed of the following:

1 (1) Three (3) members shall be licensed certified social workers,
2 two (2) members shall be licensed master social workers, and one (1) member
3 shall be a licensed social worker. These professional members shall be
4 appointed from the list of social workers licensed by this law and shall have
5 five (5) years of full-time social work practice experience prior to
6 appointment to the board. This experience may consist of direct social work
7 practice, teaching, or administration in social work;

8 (2) One (1) member shall be a psychiatrist certified by the
9 American Board of Psychiatry and Neurology;

10 (3) One (1) member shall be a representative of the public at
11 large;

12 (4) One (1) member shall be sixty (60) years of age or older, not
13 actively engaged in or retired from professional social work, and shall
14 represent the elderly. This member shall be appointed from the state at large
15 and shall be a full voting member but shall not participate in the grading of
16 examinations. The same person may not represent both the public at large and
17 the elderly.

18 (d) Members of the board may be removed from office by the Governor for
19 cause. In case of death, resignation, or removal, the vacancy of the unexpired
20 terms shall be filled by the Governor in the same manner as other
21 appointments. No member shall serve more than two (2) consecutive terms.

22 (e) Each member of the board may receive expense reimbursement in
23 accordance with § 25-16-901. All reimbursements for expenses authorized by
24 this chapter shall be paid from the Social Work Licensing Fund. No money may
25 ever be paid from the General Revenue Fund for the administration of this
26 chapter.

27
28 17-103-202. Organization and functions.

29 (a) At least two (2) regular meetings of the board shall be held each
30 calendar year. At the first regular meeting every two (2) years, the board
31 shall elect a chairperson and vice chairperson. Other regular meetings may be
32 held at such time as the rules of the board may provide.

33 (b) Special called meetings may be held at the discretion of the
34 chairperson or at the written request of any three (3) members of the board.

35 (c) Reasonable notice of all meetings shall be given in the manner
36 prescribed by the laws of this state.

1 (d) A quorum of the board shall consist of four (4) members.

2 (e) A secretary of the board shall be elected by the board and shall
3 hold office at the pleasure of the board.

4 (f) The board shall employ necessary personnel for the performance of
5 its functions and fix the compensation of the personnel within the limits of
6 funds available to the board.

7 (g) The board shall adopt a seal, which must be affixed to all
8 certificates issued by the board.

9
10 17-103-203. Duties generally.

11 In addition to the duties set forth elsewhere in this chapter, the board
12 shall:

13 (1) Establish an examination procedure, utilizing the
14 examinations approved by the board;

15 (2) Establish a licensure reciprocity agreement with other
16 states;

17 (3) Annually compile a list of the names and addresses of all
18 persons licensed under this chapter to be available upon request and cost;

19 (4) Establish mechanisms for appeal and decisions regarding
20 applications and granting of licenses, with such mechanisms to include
21 provisions for judicial review in accordance with the Arkansas Administrative
22 Procedure Act, as amended, § 25-15-201;

23 (5) Make rules and regulations not inconsistent with law as may
24 be necessary to regulate its proceedings;

25 (6) Compile an annual report;

26 (7) Establish rules defining unprofessional conduct and set forth
27 and publish a code of ethics and publish standards for practice;

28 (8) Establish fees and publish financial records;

29 (9) At the time of license renewal, require each applicant to
30 present satisfactory evidence that, in the period since the license was issued
31 he has completed the continuing education requirements specified by the board;
32 and

33 (10) Establish continuing education requirements and notify the
34 applicants for licensing of the requirements.

35
36 17-103-204. Disposition of funds.

1 (a) The secretary of the board shall receive and account for all money
2 derived under the provisions of this chapter and shall pay it weekly to the
3 Treasurer of State, who shall keep the money in a separate fund to be known as
4 the "Social Work Licensing Fund".

5 (b) Money may be paid out of the fund only by warrant drawn by the
6 chief fiscal officer on the State Treasury, on an itemized voucher, approved
7 and attested by the secretary of the board.

8 (c) There shall be audits of the Social Work Licensing Fund as required
9 by law.

10 (d) The secretary of the board shall give a surety bond for the
11 faithful performance of his duties to the Governor in the sum of ten thousand
12 dollars (\$10,000) or an amount recommended by the Auditor of State. The
13 premium for this bond shall be paid out of the Social Work Licensing Fund.

14 (e) The board may make expenditures from this fund for any purpose
15 which is reasonable and necessary to carry out the provisions of this chapter.

16
17 17-103-205. Fees.

18 The board shall establish, charge, and collect for:

19 (1) The filing of an application for a license under this
20 chapter, a fee of not more than twenty-five dollars (\$25.00);

21 (2) The taking of an examination, a fee as established by
22 regulation of the board;

23 (3) The original issuance of a license under this chapter, a fee
24 of not more than twenty-five dollars (\$25.00);

25 (4) A renewal of a license issued in accordance with this
26 chapter, a fee of not more than forty dollars (\$40.00);

27 (5) Replacement of a license or renewal lost or destroyed, a fee
28 of not less than ten dollars (\$10.00); and

29 (6) Endorsement of a foreign license, a fee of ten dollars
30 (\$10.00).

31
32 Subchapter 3.

33 Licensing.

34
35 17-103-301. License required.

36 (a) No individual shall practice or offer to practice social work

1 within the meaning of this chapter unless he is licensed, a student under the
2 provisions of this chapter, or otherwise entitled under subsections (b) and
3 (c) of this section.

4 (b) No person may engage in the private independent practice of social
5 work unless that person is licensed under this chapter as a licensed certified
6 social worker.

7 (c) No person may engage in social work consultation unless that person
8 is licensed under this chapter as a licensed certified social worker.

9
10 17-103-302. Reciprocity.

11 The board may grant a license without examination to any person meeting
12 all of the other requirements of this chapter and who, at the time of
13 application, is licensed as a social worker by a similar board of another
14 state, territory, or district, whose standards, in the opinion of the board,
15 are not lower than those required by this chapter.

16
17 17-103-303. Temporary licenses.

18 (a) A social worker who comes to reside in Arkansas and does not
19 qualify for licensing under § 17-103-302, but who is otherwise qualified for
20 licensing, may be issued a temporary license by the board at the appropriate
21 level for the practice of social work for a period of up to six (6) months
22 until the board conducts its regular licensing examinations.

23 (b) An individual who resides in Arkansas and completes the educational
24 requirements for licensing as a licensed social worker or licensed master
25 social worker under § 17-103-306 may be issued a temporary license by the
26 board at the appropriate level for the practice of social work for a period of
27 up to six (6) months until the board conducts its regular licensing
28 examinations.

29
30 17-103-304. Expiration and renewal.

31 (a) All licenses shall be effective when issued by the board.

32 (b) The licenses of a licensed social worker, licensed master social
33 worker, and licensed certified social worker shall be valid for two (2) years
34 after the date of issuance.

35 (c)(1) A license may be renewed by the payment of a renewal fee as set
36 by the board.

1 (2) The board shall mail an application for renewal of a license
2 to each person to whom a license was issued or renewed during the current
3 year, which application shall be mailed to the most recent address of the
4 person as it appears on the records of the board.

5 (3) The person shall complete the renewal application and return
6 it to the board accompanied by the required renewal fee within not more than
7 two (2) months after the renewal application was mailed by the board.

8 (4) Upon receipt of any application and fee, the board shall
9 verify the accuracy of the application and issue to the applicant a notice of
10 license renewal for the next two (2) years.

11 (d)(1) If a person fails to renew his or her license within the two-
12 month period, the license shall lapse the last day of the month of the
13 calendar year that is exactly two (2) years from the calendar year and month
14 in which the license was issued.

15 (2) Renewal of a license which has lapsed for a period in excess
16 of two (2) months but less than six (6) months may be effected upon submission
17 to the board of a renewal application accompanied by a fee which shall be
18 twice the amount of the renewal fee specified.

19 (3) If a license is allowed to lapse for six (6) months or
20 longer, the applicant for the license shall be considered a new applicant
21 subject to appropriate provisions of this chapter.

22 (e) At the time of license renewal, each applicant shall present
23 satisfactory evidence that in the period since the license was issued, he has
24 completed the continuing education requirements as required by the board.

25
26 17-103-305. Renewal, revocation, suspension - Disciplinary proceedings.

27 (a) The board may refuse to issue or renew a license or may revoke or
28 suspend a license issued under this chapter for any of the following causes or
29 reasons:

30 (1) Violation of a provision of this chapter;

31 (2) Gross negligence in the practice of social work; or

32 (3) Engaging in a course of unprofessional conduct as defined by
33 the rules established by the board or violation of the code of ethics made and
34 published by the board.

35 (b) The board shall refuse to issue or revoke the license of any person
36 who is found guilty of or pleads guilty or nolo contendere to any offense

1 listed in § 17-103-307(f), unless the person requests and the board grants a
2 waiver pursuant to 17-103-307(h).

3 (c) Hearings shall be conducted by the board. Decisions will be
4 determined by a majority vote of the board. All proceedings will be conducted
5 in accordance with the Arkansas Administrative Procedure Act, as amended,
6 § 25-15-201.

7
8 17-103-306. Qualifications - Issuance

9 (a) The board shall issue a license as a licensed social worker to an
10 applicant who qualifies as follows:

11 (1) Has a baccalaureate degree in a social work program
12 accredited by the Council on Social Work Education or received before June 17,
13 1986, a baccalaureate degree in a social work program from an accredited
14 educational institution;

15 (2) Has passed an examination approved by the board for this
16 purpose and level of practice; and

17 (3) Has applied for a criminal background check and has not been
18 found guilty of or pleaded guilty or nolo contendere to any of the offenses
19 listed in § 17-103-307(f).

20 (b) The board shall issue a license as a licensed master social worker
21 to an applicant who qualifies as follows:

22 (1) Has a master's degree from an accredited social work program
23 in an accredited institution approved by the Council on Social Work Education;

24 (2) Has passed an examination approved by the board for this
25 purpose and level of practice; and

26 (3) Has applied for a criminal background check and has not been
27 found guilty of or pleaded guilty or nolo contendere to any of the offenses
28 listed in § 17-103-307(f).

29 (c) The board shall issue a license as a licensed certified social
30 worker to an applicant who qualifies as follows:

31 (1) Has a master's degree from an accredited social work program
32 in an accredited institution approved by the Council on Social Work Education;

33 (2) Has two (2) years of supervised social work experience in a
34 clinical or nonclinical concentration by a licensed certified social worker
35 licensed under this law beyond the master's degree;

36 (3) Has passed an examination approved by the board for this

1 purpose and level of practice; and

2 (4) Has applied for a criminal background check and has not been
3 found guilty of or pleaded guilty or nolo contendere to any of the offenses
4 listed in § 17-103-307(f).

5
6 17-103-307. Criminal background checks.

7 (a) On and after October 1, 1997, each first-time applicant for a
8 license issued by the board shall be required to apply to the Identification
9 Bureau of the Arkansas State Police for a state and national criminal
10 background check, to be conducted by the Federal Bureau of Investigation.

11 (b) The check shall conform to the applicable federal standards and
12 shall include the taking of fingerprints.

13 (c) The applicant shall sign a release of information to the board and
14 shall be responsible to the Arkansas State Police for the payment of any fee
15 associated with the criminal background check.

16 (d) Upon completion of the criminal background check, the
17 Identification Bureau of the Arkansas State Police shall forward all
18 information obtained concerning the applicant in the commission of any offense
19 listed in subsection (f) of this section to the board.

20 (e) At the conclusion of any background check required by this section,
21 the Identification Bureau of the Arkansas State Police shall promptly destroy
22 the fingerprint card of the applicant.

23 (f) No person shall be eligible to receive or hold a license issued by
24 the board if that person has pleaded guilty or nolo contendere to, or been
25 found guilty of, any of the following offenses by any court in the State of
26 Arkansas, or of any similar offense by a court in another state, or of any
27 similar offense by a federal court:

28 (1) Capital murder, as prohibited in § 5-10-101;

29 (2) Murder in the first degree and second degree, as prohibited
30 in §§ 5-10-102 and 5-10-103;

31 (3) Manslaughter, as prohibited in § 5-10-104;

32 (4) Negligent homicide, as prohibited in § 5-10-105;

33 (5) Kidnapping, as prohibited in § 5-11-102;

34 (6) False imprisonment in the first degree, as prohibited in § 5-
35 11-103;

36 (7) Permanent detention or restraint, as prohibited in § 5-11-

- 1 106;
- 2 (8) Robbery, as prohibited in § 5-12-102;
- 3 (9) Aggravated robbery, as prohibited in § 5-12-103;
- 4 (10) Battery in the first degree, as prohibited in § 5-13-201;
- 5 (11) Aggravated assault, as prohibited in § 5-13-204;
- 6 (12) Introduction of controlled substance into body of another
- 7 person, as prohibited in § 5-13-210;
- 8 (13) Terroristic threatening in the first degree, as prohibited
- 9 in § 5-13-301;
- 10 (14) Rape and carnal abuse in the first degree, second degree,
- 11 and third degree, as prohibited in §§ 5-14-103 - 5-14-106;
- 12 (15) Sexual abuse in the first degree and second degree, as
- 13 prohibited in §§ 5-14-108 and 5-14-109;
- 14 (16) Sexual solicitation of a child, as prohibited in § 5-14-110;
- 15 (17) Violation of a minor in the first degree and second degree,
- 16 as prohibited in §§ 5-14-120 and 5-14-121;
- 17 (18) Incest, as prohibited in § 5-26-202;
- 18 (19) Offenses against the family, as prohibited in §§ 5-26-303 -
- 19 5-26-306;
- 20 (20) Endangering the welfare of incompetent person in the first
- 21 degree, as prohibited in § 5-27-201;
- 22 (21) Endangering the welfare of a minor in the first degree, as
- 23 prohibited in § 5-27-203;
- 24 (22) Permitting child abuse, as prohibited in § 5-27-221(a)(1)
- 25 and (3);
- 26 (23) Engaging children in sexually explicit conduct for use in
- 27 visual or print media, transportation of minors for prohibited sexual conduct,
- 28 or pandering or possessing visual or print medium depicting sexually explicit
- 29 conduct involving a child, or use of a child or consent to use of a child in a
- 30 sexual performance by producing, directing, or promoting a sexual performance
- 31 by a child, as prohibited in §§ 5-27-303 - 5-27-305, 5-27-402, and 5-27-403;
- 32 (24) Felony adult abuse, as prohibited in § 5-28-103;
- 33 (25) Theft of property, as prohibited in § 5-36-103;
- 34 (26) Theft by receiving, as prohibited in § 5-36-106;
- 35 (27) Arson, as prohibited in § 5-38-301;
- 36 (28) Burglary, as prohibited in § 5-39-201;

1 (29) Felony violation of the Uniform Controlled Substances Act,
2 as prohibited in § 5-64-401;

3 (30) Promotion of prostitution in the first degree, as prohibited
4 in § 5-70-104;

5 (31) Stalking, as prohibited in § 5-71-229; and

6 (32) Criminal attempt, criminal complicity, criminal
7 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-
8 3-301, and 5-3-401, to commit any of the offenses listed in this subsection.

9 (g)(1) The board may issue a six-month nonrenewable letter of
10 provisional eligibility for licensure to a first-time applicant pending the
11 results of the criminal background check.

12 (2) Upon receipt of information from the Identification Bureau of
13 the Arkansas State Police that the person holding such letter of provisional
14 licensure has pleaded guilty or nolo contendere to, or been found guilty of,
15 any offense listed in subsection (f) of this section, the board shall
16 immediately revoke the provisional license.

17 (h)(1) The provisions of subsections (f) and (g)(2) of this section may
18 be waived by the board upon the request of:

19 (A) An affected applicant for licensure; or

20 (B) The person holding a license subject to revocation.

21 (2) Circumstances for which a waiver may be granted shall
22 include, but not be limited to, the following:

23 (A) The age at which the crime was committed;

24 (B) The circumstances surrounding the crime;

25 (C) The length of time since the crime;

26 (D) Subsequent work history;

27 (E) Employment references;

28 (F) Character references; and

29 (G) Other evidence demonstrating that the applicant does
30 not pose a threat to the health or safety of children.

31 (i) Any information received by the board from the Identification
32 Bureau of the Arkansas State Police pursuant to this section shall not be
33 available for examination except by the affected applicant for licensure, or
34 his authorized representative, or the person whose license is subject to
35 revocation, or his authorized representative. No record, file, or document
36 shall be removed from the custody of the Arkansas State Police.

1 (j) Any information made available to the affected applicant for
2 licensure or the person whose license is subject to revocation shall be
3 information pertaining to that person only.

4 (k) Rights of privilege and confidentiality established in this section
5 shall not extend to any document created for purposes other than this
6 background check.

7 (l) The board shall adopt the necessary rules and regulations to fully
8 implement the provisions of this section.

9 (m) By October 1, 2000, all persons licensed by the board prior to
10 October 1, 1997, shall be required to apply for a criminal history check in
11 the same manner as an applicant for licensure under this section. The board
12 shall develop and adopt a regulation that prescribes how criminal history
13 checks for persons licensed prior to October 1, 1997 will be phased in during
14 the period prior to October 1, 2000.

15
16 SECTION 2. Arkansas Code Title 17, Chapter 46 is hereby repealed.

17 ~~Subchapter 1.~~

18 ~~General Provisions.~~

19
20 ~~17-46-101. Title.~~

21 ~~This chapter shall be known and may be cited as the "Social Work~~
22 ~~Licensing Act".~~

23
24 ~~17-46-102. Purpose.~~

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26 ~~the people of this state, it is the purpose of this chapter to protect the~~
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1 of individuals, couples, families, groups, and organizations. "Social work
2 practice" can only be performed with specialized knowledge and skills related
3 to human development, the potential for human growth, the availability of
4 social resources, and the knowledge of social systems. The disciplined
5 application of social work knowledge and skills includes, but is not
6 restricted to, the following:

7 (A) Counseling with individuals, couples, families, and
8 groups for purposes of assessment and enhancement of the problem-solving and
9 coping capacities of people; and

10 (B) The application of social work knowledge and skills in
11 social planning, administration, and research.

12
13 17-46-104. Exemptions.

14 (a) Nothing in this chapter shall be construed to prevent members of
15 the clergy, Christian Science practitioners, and licensed professionals such
16 as physicians, nurses, psychologists, counselors, and attorneys from doing
17 work within the standards and ethics of their respective professions,
18 providing they do not hold themselves out to the public by any title or
19 description of services as being social workers as defined under this chapter.

20 (b) Nothing in this chapter shall be construed to limit or prohibit the
21 employment by licensed hospitals in this state of persons who perform services
22 commonly within the definition of social work or practices performed by social
23 workers, so long as the services are performed within the course of and scope
24 of their employment as an employee of the hospital. Nor shall this chapter
25 require any regular employee of a licensed hospital in this state to be
26 licensed as a licensed social worker, a licensed master social worker, or a
27 licensed certified social worker as a condition of employment by or
28 performance of services as a social worker while employed in a licensed
29 hospital in this state.

30 (c) Nothing in this chapter shall be construed as limiting the
31 activities and services of a graduate or undergraduate student for the
32 practice of social work from an accredited educational institution.

33 (d)(1) Nothing in this chapter shall be construed to require any person
34 to be licensed as a licensed social worker who engaged in the practice of a
35 specialty as an employee of any agency or department of the state in the job
36 classifications of family service worker and social service worker, but only

1 ~~when engaged in that practice as an employee of such an agency or department.~~

2 ~~(2) It is the intent of the General Assembly to restrict~~
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6 ~~service workers.~~

7
8 ~~17-46-105. Violations.~~

9 ~~The following acts shall constitute violations of this chapter:~~

10 ~~(1) Representing oneself to be a social worker, licensed social~~
11 ~~worker, licensed master social worker, or licensed certified social worker~~
12 ~~unless licensed as such under this chapter or under titles or descriptions~~
13 ~~offering to give or giving services to individuals, groups, agencies, or~~
14 ~~corporations without a license;~~

15 ~~(2) Entering the private independent practice of social work~~
16 ~~without being certified by the board;~~

17 ~~(3) Obtaining or attempting to obtain a license or renewal~~
18 ~~thereof by bribery or fraudulent representation; and~~

19 ~~(4) Knowingly making a false statement on any form promulgated by~~
20 ~~the board in accordance with this chapter or the rules and regulations~~
21 ~~promulgated hereunder.~~

22
23 ~~17-46-106. Penalties and enforcement.~~

24 ~~(a) Violations of this chapter shall constitute Class A misdemeanors.~~

25 ~~(b) The board shall assist the prosecuting attorney in the enforcement~~
26 ~~of this chapter, and any member of the board may present evidence of a~~
27 ~~violation to the appropriate prosecuting attorney.~~

28
29 ~~17-46-107. Privileged communications.~~

30 ~~No licensed certified social worker, licensed master social worker, or~~
31 ~~licensed social worker or his secretary, stenographer, or clerk may disclose~~
32 ~~any information he may have acquired from persons consulting him in his~~
33 ~~professional capacity to those persons except:~~

34 ~~(1) With the written consent of the person or persons or, in the~~
35 ~~case of death or disability, of his own legal guardian, other person~~
36 ~~authorized to sue, or the beneficiary of an insurance policy on his life,~~

1 health, or physical condition;

2 ~~(2) That a licensed certified social worker, licensed master~~
3 ~~social worker, or licensed social worker shall not be required to treat as~~
4 ~~confidential a communication that reveals the contemplation of a crime or a~~
5 ~~harmful act;~~

6 ~~(3) When the person is a minor under the laws of this state and~~
7 ~~the information acquired by the licensed certified social worker, licensed~~
8 ~~master social worker, or licensed social worker indicates that the minor was~~
9 ~~the victim or subject of a crime, the licensed certified social worker,~~
10 ~~licensed master social worker, or the licensed social worker may be required~~
11 ~~to testify fully in any examination, trial, or other proceedings in which the~~
12 ~~commission of such a crime is the subject of inquiry; or~~

13 ~~(4) When the person waives the privilege by bringing charges~~
14 ~~against the licensed certified social worker, licensed master social worker,~~
15 ~~or the licensed social worker.~~

16
17 ~~17-46-108. Privileged communications - Not repealed.~~

18 ~~Notwithstanding the provisions of this section or any other law, the~~
19 ~~privileged communications provisions codified at § 17-46-107 et seq. are not~~
20 ~~repealed.~~

21
22 ~~Subchapter 2.~~

23 ~~Social Work Licensing Board.~~

24
25 ~~17-46-201. Creation - Members.~~

26 ~~(a) There is created the Arkansas Social Work Licensing Board.~~

27 ~~(b) All members of the board shall be appointed by the Governor with~~
28 ~~the consent of the Senate, for terms of three (3) years, and shall be~~
29 ~~residents of the state and citizens of the United States.~~

30 ~~(c) The board shall have nine (9) members, with no fewer than two (2)~~
31 ~~blacks, and shall be composed of the following:~~

32 ~~(1) Three (3) members shall be licensed certified social workers,~~
33 ~~two (2) members shall be licensed master social workers, and one (1) member~~
34 ~~shall be a licensed social worker. These professional members shall be~~
35 ~~appointed from the list of social workers licensed by this law and shall have~~
36 ~~five (5) years of full-time social work practice experience prior to~~

1 ~~appointment to the board. This experience may consist of direct social work~~
2 ~~practice, teaching, or administration in social work;~~

3 ~~(2) One (1) member shall be a psychiatrist certified by the~~
4 ~~American Board of Psychiatry and Neurology;~~

5 ~~(3) One (1) member shall be a representative of the public at~~
6 ~~large;~~

7 ~~(4) One (1) member shall be sixty (60) years of age or older, not~~
8 ~~actively engaged in or retired from professional social work, and shall~~
9 ~~represent the elderly. This member shall be appointed from the state at large~~
10 ~~and shall be a full voting member but shall not participate in the grading of~~
11 ~~examinations. The same person may not represent both the public at large and~~
12 ~~the elderly.~~

13 ~~(d) Members of the board may be removed from office by the Governor for~~
14 ~~cause. In case of death, resignation, or removal, the vacancy of the unexpired~~
15 ~~terms shall be filled by the Governor in the same manner as other~~
16 ~~appointments. No member shall serve more than two (2) consecutive terms.~~

17 ~~(e) Each member of the board may receive expense reimbursement in~~
18 ~~accordance with § 25-16-901 et seq. All reimbursements for expenses authorized~~
19 ~~by this chapter shall be paid from the Social Work Licensing Fund. No money~~
20 ~~may ever be paid from the General Revenue Fund for the administration of this~~
21 ~~chapter.~~

22
23 ~~17-46-202. Organization and functions.~~

24 ~~(a) At least two (2) regular meetings of the board shall be held each~~
25 ~~calendar year. At the first regular meeting every two (2) years, the board~~
26 ~~shall elect a chairperson and vice chairperson. Other regular meetings may be~~
27 ~~held at such time as the rules of the board may provide.~~

28 ~~(b) Special called meetings may be held at the discretion of the~~
29 ~~chairperson or at the written request of any three (3) members of the board.~~

30 ~~(c) Reasonable notice of all meetings shall be given in the manner~~
31 ~~prescribed by the laws of this state.~~

32 ~~(d) A quorum of the board shall consist of four (4) members.~~

33 ~~(e) A secretary of the board shall be elected by the board and shall~~
34 ~~hold office at the pleasure of the board.~~

35 ~~(f) The board shall employ necessary personnel for the performance of~~
36 ~~its functions and fix the compensation of the personnel within the limits of~~

1 ~~funds available to the board.~~

2 ~~(g) The board shall adopt a seal, which must be affixed to all~~
3 ~~certificates issued by the board.~~

4
5 ~~17-46-203. Duties generally.~~

6 ~~In addition to the duties set forth elsewhere in this chapter, the board~~
7 ~~shall:~~

8 ~~(1) Establish an examination procedure, utilizing the~~
9 ~~examinations approved by the board;~~

10 ~~(2) Establish a licensure reciprocity agreement with other~~
11 ~~states;~~

12 ~~(3) Annually compile a list of the names and addresses of all~~
13 ~~persons licensed under this chapter to be available upon request and cost;~~

14 ~~(4) Establish mechanisms for appeal and decisions regarding~~
15 ~~applications and granting of licenses, with such mechanisms to include~~
16 ~~provisions for judicial review in accordance with the Arkansas Administrative~~
17 ~~Procedure Act, as amended, § 25-15-201 et seq.;~~

18 ~~(5) Make rules and regulations not inconsistent with law as may~~
19 ~~be necessary to regulate its proceedings;~~

20 ~~(6) Compile an annual report;~~

21 ~~(7) Establish rules defining unprofessional conduct and set forth~~
22 ~~and publish a code of ethics and publish standards for practice;~~

23 ~~(8) Establish fees and publish financial records;~~

24 ~~(9) At the time of license renewal, require each applicant to~~
25 ~~present satisfactory evidence that in the period since the license was issued~~
26 ~~he has completed the continuing education requirements specified by the board;~~
27 ~~and~~

28 ~~(10) Establish continuing education requirements and notify the~~
29 ~~applicants for licensing of the requirements.~~

30
31 ~~17-46-204. Disposition of funds.~~

32 ~~(a) The secretary of the board shall receive and account for all money~~
33 ~~derived under the provisions of this chapter and shall pay it weekly to the~~
34 ~~Treasurer of State, who shall keep the money in a separate fund to be known as~~
35 ~~the "Social Work Licensing Fund".~~

36 ~~(b) Money may be paid out of the fund only by warrant drawn by the~~

1 ~~chief fiscal officer on the State Treasury, on an itemized voucher, approved~~
2 ~~and attested by the secretary of the board.~~

3 ~~(c) There shall be audits of the Social Work Licensing Fund as required~~
4 ~~by law.~~

5 ~~(d) The secretary of the board shall give a surety bond for the~~
6 ~~faithful performance of his duties to the Governor in the sum of ten thousand~~
7 ~~dollars (\$10,000) or an amount recommended by the Auditor of State. The~~
8 ~~premium for this bond shall be paid out of the Social Work Licensing Fund.~~

9 ~~(e) The board may make expenditures from this fund for any purpose~~
10 ~~which is reasonable and necessary to carry out the provisions of this chapter.~~

11
12 ~~17-46-205. Fees.~~

13 ~~The board shall establish, charge, and collect for:~~

14 ~~(1) The filing of an application for a license under this~~
15 ~~chapter, a fee of not more than twenty-five dollars (\$25.00);~~

16 ~~(2) The taking of an examination, a fee as established by~~
17 ~~regulation of the board;~~

18 ~~(3) The original issuance of a license under this chapter, a fee~~
19 ~~of not more than twenty-five dollars (\$25.00);~~

20 ~~(4) A renewal of a license issued in accordance with this~~
21 ~~chapter, a fee of not more than forty dollars (\$40.00);~~

22 ~~(5) Replacement of a license or renewal lost or destroyed, a fee~~
23 ~~of not less than ten dollars (\$10.00); and~~

24 ~~(6) Endorsement of a foreign license, a fee of ten dollars~~
25 ~~(\$10.00).~~

26
27 ~~Subchapter 3.~~

28 ~~Licensing.~~

29
30 ~~17-46-301. License required.~~

31 ~~(a) No individual shall practice or offer to practice social work~~
32 ~~within the meaning of this chapter unless he is licensed, a student under the~~
33 ~~provisions of this chapter, or otherwise entitled under subsections (b) and~~
34 ~~(c) of this section.~~

35 ~~(b) No person may engage in the private independent practice of social~~
36 ~~work unless that person is licensed under this chapter as a licensed certified~~

1 ~~social worker.~~

2 ~~(c) No person may engage in social work consultation unless that person~~
3 ~~is licensed under this chapter as a licensed certified social worker.~~

4
5 ~~17-46-302. Reciprocity.~~

6 ~~The board may grant a license without examination to any person meeting~~
7 ~~all of the other requirements of this chapter and who, at the time of~~
8 ~~application, is licensed as a social worker by a similar board of another~~
9 ~~state, territory, or district, whose standards, in the opinion of the board,~~
10 ~~are not lower than those required by this chapter.~~

11
12 ~~17-46-303. Temporary licenses.~~

13 ~~(a) A social worker who comes to reside in Arkansas and does not~~
14 ~~qualify for licensing under § 17-46-302, but who is otherwise qualified for~~
15 ~~licensing, may be issued a temporary license by the board at the appropriate~~
16 ~~level for the practice of social work for a period of up to six (6) months~~
17 ~~until the board conducts its regular licensing examinations.~~

18 ~~(b) An individual who resides in Arkansas and completes the educational~~
19 ~~requirements for licensing as a licensed social worker or licensed master~~
20 ~~social worker under § 17-46-306 may be issued a temporary license by the board~~
21 ~~at the appropriate level for the practice of social work for a period of up to~~
22 ~~six (6) months until the board conducts its regular licensing examinations.~~

23
24 ~~17-46-304. Expiration and renewal.~~

25 ~~(a) All licenses shall be effective when issued by the board.~~

26 ~~(b) The licenses of a licensed social worker, licensed master social~~
27 ~~worker, and licensed certified social worker shall be valid for two (2) years~~
28 ~~after the date of issuance.~~

29 ~~(c)(1) A license may be renewed by the payment of a renewal fee as set~~
30 ~~by the board.~~

31 ~~(2) The board shall mail an application for renewal of a license~~
32 ~~to each person to whom a license was issued or renewed during the current~~
33 ~~year, which application shall be mailed to the most recent address of the~~
34 ~~person as it appears on the records of the board.~~

35 ~~(3) The person shall complete the renewal application and return~~
36 ~~it to the board accompanied by the required renewal fee within not more than~~

1 ~~two (2) months after the renewal application was mailed by the board.~~

2 ~~(4) Upon receipt of any application and fee, the board shall~~
3 ~~verify the accuracy of the application and issue to the applicant a notice of~~
4 ~~license renewal for the next two (2) years.~~

5 ~~(d)(1) If a person fails to renew his or her license within the two-~~
6 ~~month period, the license shall lapse the last day of the month of the~~
7 ~~calendar year that is exactly two (2) years from the calendar year and month~~
8 ~~in which the license was issued.~~

9 ~~(2) Renewal of a license which has lapsed for a period in excess~~
10 ~~of two (2) months but less than six (6) months may be effected upon submission~~
11 ~~to the board of a renewal application accompanied by a fee which shall be~~
12 ~~twice the amount of the renewal fee specified.~~

13 ~~(3) If a license is allowed to lapse for six (6) months or~~
14 ~~longer, the applicant for the license shall be considered a new applicant~~
15 ~~subject to appropriate provisions of this chapter.~~

16 ~~(e) At the time of license renewal, each applicant shall present~~
17 ~~satisfactory evidence that in the period since the license was issued, he has~~
18 ~~completed the continuing education requirements as required by the board.~~

19
20 ~~17-46-305. Renewal, revocation, suspension - Disciplinary proceedings.~~

21 ~~(a) The board may refuse to issue or renew a license or may revoke or~~
22 ~~suspend a license issued under this chapter for any of the following causes or~~
23 ~~reasons:~~

24 ~~(1) Violation of a provision of this chapter;~~

25 ~~(2) Gross negligence in the practice of social work; or~~

26 ~~(3) Engaging in a course of unprofessional conduct as defined by~~
27 ~~the rules established by the board or violation of the code of ethics made and~~
28 ~~published by the board.~~

29 ~~(b) The board shall refuse to issue or revoke the license of any person~~
30 ~~who is found guilty of or pleads guilty or nolo contendere to any offense~~
31 ~~listed in § 17-46-307(f), unless the person requests and the board grants a~~
32 ~~waiver pursuant to 17-46-307(h).~~

33 ~~(c) Hearings shall be conducted by the board. Decisions will be~~
34 ~~determined by a majority vote of the board. All proceedings will be conducted~~
35 ~~in accordance with the Arkansas Administrative Procedure Act, as amended, §~~
36 ~~25-15-201 et seq.~~

1
2 ~~17-46-306. Qualifications -- Issuance.~~

3 ~~(a) The board shall issue a license as a licensed social worker to an~~
4 ~~applicant who qualifies as follows:~~

5 ~~(1) Has a baccalaureate degree in a social work program~~
6 ~~accredited by the Council on Social Work Education or receives before June 17,~~
7 ~~1986, a baccalaureate degree in a social work program from an accredited~~
8 ~~educational institution;~~

9 ~~(2) Has passed an examination approved by the board for this~~
10 ~~purpose and level of practice; and~~

11 ~~(3) Has applied for a criminal background check and has not been~~
12 ~~found guilty of or pleaded guilty or nolo contendere to any of the offenses~~
13 ~~listed in § 17-46-307(f).~~

14 ~~(b) The board shall issue a license as a licensed master social worker~~
15 ~~to an applicant who qualifies as follows:~~

16 ~~(1) Has a master's degree from an accredited social work program~~
17 ~~in an accredited institution approved by the Council on Social Work Education;~~

18 ~~(2) Has passed an examination approved by the board for this~~
19 ~~purpose and level of practice; and~~

20 ~~(3) Has applied for a criminal background check and has not been~~
21 ~~found guilty of or pleaded guilty or nolo contendere to any of the offenses~~
22 ~~listed in § 17-46-307(f).~~

23 ~~(c) The board shall issue a license as a licensed certified social~~
24 ~~worker to an applicant who qualifies as follows:~~

25 ~~(1) Has a master's degree from an accredited social work program~~
26 ~~in an accredited institution approved by the Council on Social Work Education;~~

27 ~~(2) Has two (2) years of supervised social work experience in a~~
28 ~~clinical or nonclinical concentration by a licensed certified social worker~~
29 ~~licensed under this law beyond the master's degree;~~

30 ~~(3) Has passed an examination approved by the board for this~~
31 ~~purpose and level of practice; and~~

32 ~~(4) Has applied for a criminal background check and has not been~~
33 ~~found guilty of or pleaded guilty or nolo contendere to any of the offenses~~
34 ~~listed in § 17-46-307(f).~~

35
36 ~~17-46-307. Criminal background checks.~~

1 ~~(a) On and after October 1, 1997, each first-time applicant for a~~
2 ~~license issued by the board shall be required to apply to the Identification~~
3 ~~Bureau of the Arkansas State Police for a state and national criminal~~
4 ~~background check, to be conducted by the Federal Bureau of Investigation.~~

5 ~~(b) The check shall conform to the applicable federal standards and~~
6 ~~shall include the taking of fingerprints.~~

7 ~~(c) The applicant shall sign a release of information to the board and~~
8 ~~shall be responsible to the Arkansas State Police for the payment of any fee~~
9 ~~associated with the criminal background check.~~

10 ~~(d) Upon completion of the criminal background check, the~~
11 ~~Identification Bureau of the Arkansas State Police shall forward all~~
12 ~~information obtained concerning the applicant in the commission of any offense~~
13 ~~listed in subsection (f) of this section to the board.~~

14 ~~(e) At the conclusion of any background check required by this section,~~
15 ~~the Identification Bureau of the Arkansas State Police shall promptly destroy~~
16 ~~the fingerprint card of the applicant.~~

17 ~~(f) No person shall be eligible to receive or hold a license issued by~~
18 ~~the board if that person has pleaded guilty or nolo contendere to, or been~~
19 ~~found guilty of, any of the following offenses by any court in the State of~~
20 ~~Arkansas, or of any similar offense by a court in another state, or of any~~
21 ~~similar offense by a federal court:~~

22 ~~(1) Capital murder, as prohibited in § 5-10-101;~~

23 ~~(2) Murder in the first degree and second degree, as prohibited~~
24 ~~in §§ 5-10-102 and 5-10-103;~~

25 ~~(3) Manslaughter, as prohibited in § 5-10-104;~~

26 ~~(4) Negligent homicide, as prohibited in § 5-10-105;~~

27 ~~(5) Kidnapping, as prohibited in § 5-11-102;~~

28 ~~(6) False imprisonment in the first degree, as prohibited in § 5-~~
29 ~~11-103;~~

30 ~~(7) Permanent detention or restraint, as prohibited in § 5-11-~~
31 ~~106;~~

32 ~~(8) Robbery, as prohibited in § 5-12-102;~~

33 ~~(9) Aggravated robbery, as prohibited in § 5-12-103;~~

34 ~~(10) Battery in the first degree, as prohibited in § 5-13-201;~~

35 ~~(11) Aggravated assault, as prohibited in § 5-13-204;~~

36 ~~(12) Introduction of controlled substance into body of another~~

- 1 ~~person, as prohibited in § 5-13-210;~~
- 2 ~~(13) Terroristic threatening in the first degree, as prohibited~~
- 3 ~~in § 5-13-301;~~
- 4 ~~(14) Rape and carnal abuse in the first degree, second degree,~~
- 5 ~~and third degree, as prohibited in §§ 5-14-103 - 5-14-106;~~
- 6 ~~(15) Sexual abuse in the first degree and second degree, as~~
- 7 ~~prohibited in §§ 5-14-108 and 5-14-109;~~
- 8 ~~(16) Sexual solicitation of a child, as prohibited in § 5-14-110;~~
- 9 ~~(17) Violation of a minor in the first degree and second degree,~~
- 10 ~~as prohibited in §§ 5-14-120 and 5-14-121;~~
- 11 ~~(18) Incest, as prohibited in § 5-26-202;~~
- 12 ~~(19) Offenses against the family, as prohibited in §§ 5-26-303 -~~
- 13 ~~5-26-306;~~
- 14 ~~(20) Endangering the welfare of incompetent person in the first~~
- 15 ~~degree, as prohibited in § 5-27-201;~~
- 16 ~~(21) Endangering the welfare of a minor in the first degree, as~~
- 17 ~~prohibited in § 5-27-203;~~
- 18 ~~(22) Permitting child abuse, as prohibited in § 5-27-221(a)(1)~~
- 19 ~~and (3);~~
- 20 ~~(23) Engaging children in sexually explicit conduct for use in~~
- 21 ~~visual or print media, transportation of minors for prohibited sexual conduct,~~
- 22 ~~or pandering or possessing visual or print medium depicting sexually explicit~~
- 23 ~~conduct involving a child, or use of a child or consent to use of a child in a~~
- 24 ~~sexual performance by producing, directing, or promoting a sexual performance~~
- 25 ~~by a child, as prohibited in §§ 5-27-303 - 5-27-305, 5-27-402, and 5-27-403;~~
- 26 ~~(24) Felony adult abuse, as prohibited in § 5-28-103;~~
- 27 ~~(25) Theft of property, as prohibited in § 5-36-103;~~
- 28 ~~(26) Theft by receiving, as prohibited in § 5-36-106;~~
- 29 ~~(27) Arson, as prohibited in § 5-38-301;~~
- 30 ~~(28) Burglary, as prohibited in § 5-39-201;~~
- 31 ~~(29) Felony violation of the Uniform Controlled Substances Act,~~
- 32 ~~as prohibited in § 5-64-401;~~
- 33 ~~(30) Promotion of prostitution in the first degree, as prohibited~~
- 34 ~~in § 5-70-104;~~
- 35 ~~(31) Stalking, as prohibited in § 5-71-229; and~~
- 36 ~~(32) Criminal attempt, criminal complicity, criminal~~

1 ~~solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-~~
2 ~~3-301, and 5-3-401, to commit any of the offenses listed in this subsection.~~

3 ~~(g)(1) The board may issue a six-month nonrenewable letter of~~
4 ~~provisional eligibility for licensure to a first-time applicant pending the~~
5 ~~results of the criminal background check.~~

6 ~~(2) Upon receipt of information from the Identification Bureau of~~
7 ~~the Arkansas State Police that the person holding such letter of provisional~~
8 ~~licensure has pleaded guilty or nolo contendere to, or been found guilty of,~~
9 ~~any offense listed in subsection (f) of this section, the board shall~~
10 ~~immediately revoke the provisional license.~~

11 ~~(h)(1) The provisions of subsections (f) and (g)(2) of this section may~~
12 ~~be waived by the board upon the request of:~~

13 ~~(A) An affected applicant for licensure; or~~

14 ~~(B) The person holding a license subject to revocation.~~

15 ~~(2) Circumstances for which a waiver may be granted shall~~
16 ~~include, but not be limited to, the following:~~

17 ~~(A) The age at which the crime was committed;~~

18 ~~(B) The circumstances surrounding the crime;~~

19 ~~(C) The length of time since the crime;~~

20 ~~(D) Subsequent work history;~~

21 ~~(E) Employment references;~~

22 ~~(F) Character references; and~~

23 ~~(G) Other evidence demonstrating that the applicant does~~
24 ~~not pose a threat to the health or safety of children.~~

25 ~~(i) Any information received by the board from the Identification~~
26 ~~Bureau of the Arkansas State Police pursuant to this section shall not be~~
27 ~~available for examination except by the affected applicant for licensure, or~~
28 ~~his authorized representative, or the person whose license is subject to~~
29 ~~revocation, or his authorized representative. No record, file, or document~~
30 ~~shall be removed from the custody of the Arkansas State Police.~~

31 ~~(j) Any information made available to the affected applicant for~~
32 ~~licensure or the person whose license is subject to revocation shall be~~
33 ~~information pertaining to that person only.~~

34 ~~(k) Rights of privilege and confidentiality established in this section~~
35 ~~shall not extend to any document created for purposes other than this~~
36 ~~background check.~~

1 ~~(l) The board shall adopt the necessary rules and regulations to fully~~
2 ~~implement the provisions of this section.~~

3 ~~(m) By October 1, 2000, all persons licensed by the board prior to~~
4 ~~October 1, 1997, shall be required to apply for a criminal history check in~~
5 ~~the same manner as an applicant for licensure under this section. The board~~
6 ~~shall develop and adopt a regulation that prescribes how criminal history~~
7 ~~checks for persons licensed prior to October 1, 1997 will be phased in during~~
8 ~~the period prior to October 1, 2000.~~

9
10 SECTION 3. Arkansas Code 19-6-301(110) is amended to read as follows:

11 "19-6-301. Special revenues enumerated. [Effective January 1, 1998.]

12 (110) Social work examination and license fees, as enacted by Act 791
13 of 1981, known as the "Social Work Licensing Act", and all laws amendatory
14 thereto, ~~§§ 17-46-101 - 17-46-107, 17-46-201 - 17-46-205, and 17-46-301 - 17-~~
15 ~~46-306;~~"

16
17 SECTION 4. Arkansas Code 19-6-440 is amended to read as follows:

18 "19-6-440. Social Work Licensing Fund.

19 The Social Work Licensing Fund shall consist of those special revenues
20 as specified in subdivision (110) of § 19-6-301, there to be used by the
21 Arkansas Social Work Licensing Board in exercising the powers, functions, and
22 duties as set out in ~~§ 17-46-101 et seq.~~ The Social Work Licensing Act."

23
24 SECTION 5. Arkansas Code 20-33-211(a) is amended to read as follows:

25 "20-33-211. Exclusions - Licensed professionals - Completion of criminal
26 history check.

27 (a) This subchapter shall not apply to persons who render care subject
28 to professional licenses obtained pursuant to:

29 (1) § 17-27-101, et seq., regarding licensed professional
30 counselors;

31 (2) § ~~17-46-101~~ 17-103-101, et seq., regarding social workers;

32 (3) § 17-82-101, et seq., regarding dentists;

33 (4) § 17-87-101, et seq., regarding nurses;

34 (5) § 17-88-101, et seq., regarding occupational therapists;

35 (6) § 17-92-101, et seq., regarding pharmacists;

36 (7) § 17-93-301, et seq. regarding physical therapists;

1 (8) § 17-95-201, et seq., regarding physicians and surgeons;

2 (9) § 17-96-101, et seq., regarding podiatrists;

3 (10) § 17-97-101, et seq., regarding psychologists and
4 psychological examiners;

5 (11) § 17-100-101, et seq., regarding speech-language
6 pathologists and audiologists; or

7 (12) § 20-10-401, et seq., regarding nursing home
8 administrators."

9

10 SECTION 6. Arkansas Code 20-15-906 is amended to read as follows:

11 "20-15-906. Report to Department of Health required - Privileged
12 communications.

13 (a) Reports shall be made to the Arkansas Department of Health in such
14 form and manner as may be required by the department for all persons who have
15 been determined to have acquired immunodeficiency syndrome (AIDS) or who have
16 tested positive for the presence of human immunodeficiency virus (HIV) antigen
17 or antibodies.

18 (b) Reporting is required by the following persons:

19 (1) Physicians;

20 (2) Hospital infection control practitioners and the chairpersons
21 of hospital infection control committees;

22 (3) Directors of laboratories doing business in the State of
23 Arkansas;

24 (4) Medical directors of in-home health agencies;

25 (5) Program directors of state agencies to whom an HIV/AIDS
26 diagnosis has been disclosed;

27 (6) Nursing home medical directors; and

28 (7) Those other persons as are required by the rules and
29 regulations of the Arkansas Department of Health.

30 (c) Notwithstanding the provisions of this section or any other law,
31 the privileged communications provisions codified at § ~~17-46-107~~ 17-103-107 et
32 seq., are not repealed."

33

34 SECTION 7. Arkansas Code 25-15-104 is amended to read as follows:

35 "25-15-104. Subpoena powers.

36 (a)(1) The following boards and commissions shall have the power to

1 issue subpoenas and bring before the board or commission as a witness any
2 person in this state:

- 3 (A) Auctioneer's Licensing Board, § 17-17-201 et seq.;
- 4 (B) State Athletic Commission, § 17-22-201 et seq.;
- 5 (C) State Board of Cosmetology, § 17-26-201 et seq.;
- 6 (D) Arkansas Board of Examiners in Counseling, § 17-27-201
7 et seq.;
- 8 (E) State Board of Embalmers and Funeral Directors, § 17-
9 29-201 et seq.;
- 10 (F) Advisory Committee for Registration of Landscape
11 Architects in the State of Arkansas, § 17-36-201 et seq.;
- 12 (G) The Committee of Plumbing Examiners of the State Board
13 of Health, § 17-38-202;
- 14 (H) Arkansas Social Work Licensing Board, § ~~17-46-201~~ 17-
15 103-201 et seq.;
- 16 (I) HVACR Licensing Board, § 17-33-201 et seq.;
- 17 (J) Liquefied Petroleum Gas Board, § 15-75-201 et seq.;
- 18 (K) Judicial Discipline and Disability Commission, Arkansas
19 Constitution, Amendment 66, and § 16-10-401 et seq.;
- 20 (L) Veterinary Medical Examining Board, § 17-101-201 et
21 seq.;
- 22 (M) Arkansas Board of Dispensing Opticians, § 17-89-201 et
23 seq.; and
- 24 (N) State Board of Election Commissioners, § 7-4-101 et
25 seq.

26 (2) These boards shall by regulation provide for the issuance of
27 a subpoena upon the request of any party to a proceeding pending before the
28 board or at the request of the board.

29 (3) The writ shall be in the name of the board, shall state the
30 name of the board and the name of the proceeding and shall command each person
31 to whom it is directed to appear and give testimony at the time and place
32 therein specified.

33 (4) The writ may require the witness to bring with him any book,
34 writing, or other thing under his control which he is bound by law to produce
35 in evidence.

36 (5) Service of the writ shall be in the manner as now provided by

1 statute or rule for the service of subpoenas in civil cases.

2 (b)(1) A witness who has been served by subpoena in the manner provided"

3
4 SECTION 8. All provisions of this act of a general and permanent nature
5 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
6 Revision Commission shall incorporate the same in the Code.

7
8 SECTION 9. If any provision of this act or the application thereof to
9 any person or circumstance is held invalid, such invalidity shall not affect
10 other provisions or applications of the act which can be given effect without
11 the invalid provision or application, and to this end the provisions of this
12 act are declared to be severable.

13
14 SECTION 10. All laws and parts of laws in conflict with this act are
15 hereby repealed.

16 /s/ Mahony

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19 APPROVED: 4/5/1999
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