

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
3900 BOARD OF CLINICAL SOCIAL WORK EXAMINERS
Statutory Authority: 24 Delaware Code, Section 3906(a)(1), (24 Del.C. §3906(a)(1))
24 DE Admin. Code 3900

PROPOSED

PUBLIC NOTICE

3900 Board of Clinical Social Work Examiners

Pursuant to 24 Del.C. §3906(a)(1), the Board of Clinical Social Work Examiners ("the Board") has proposed revisions to its regulations. Subsection 9.3.9, pertaining to computer and internet technology, is stricken. A new Section 11.0 is added to implement standards for the practice of clinical social work through telehealth. New Subsections 7.3.4 and 7.3.5 are added to clarify the continuing education audit process, including hearings and disciplinary sanctions. Finally, certain technical revisions address inconsistencies in the regulations.

A public hearing will be held on June 20, 2016 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments. Anyone wishing to receive a copy of the proposed regulations may obtain a copy from the Delaware Board of Clinical Social Work Examiners, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to Sandra Wagner, Administrator for the Board, at the above address. Pursuant to 29 Del.C. §10118(a), the final date to receive written comments will be July 5, 2016. The Board will deliberate on the proposed revisions at its next regularly scheduled meeting.

3900 Board of Clinical Social Work Examiners

1.0 Election of Officers and Responsibilities

- 1.1 Officers shall be elected in September of each year, for a one year term. Special elections to fill vacancies shall be held upon notice and shall be only for the balance of the original term.
- 1.2 Officers have the following responsibilities:
 - 1.2.1 The President will preside at all meetings and sign official documents on behalf of the Board.
 - 1.2.2 The Vice-President will perform the duties of the President when the latter is unavailable or unable to perform the duties of the President.
 - 1.2.3 The Secretary will preside over meetings in the absence of the President and Vice-President.

2.0 Definitions

"Advocacy" means advocacy on behalf of an individual or family, and not on behalf of a cause or a group of people.

"Assessment" of "biopsychosocial dysfunction, disability and impairment" includes ongoing evaluation of a client's functioning and intervention outcomes.

"Clinical Social Work" as provided in 24 Del.C. §3902(2) shall mean the application of social work theory and methods, which may include the person-in-environment perspective, to the assessment, diagnosis, prevention and treatment of biopsychosocial dysfunction, disability and impairment, including mental and emotional disorders, developmental disabilities and substance abuse. The application of social work method and theory includes, but is not restricted to, assessment (excluding administration of the psychological tests which are reserved exclusively for use by licensed psychologists pursuant to Chapter 35 of Title 24 of the *Delaware Code*), diagnosis, treatment planning and psychotherapy with individuals, couples, families and groups, case management, advocacy, crisis intervention and supervision of and consultation about clinical social work practice.

"Groups" shall mean small groups, consisting of persons who represent themselves and are not representatives of a larger group.

3.0 Acceptable Clinical Social Work Experience

- 3.1 An applicant for examination and licensure shall submit evidence, verified by oath and acceptable to the Board, that such person has acquired two years (not less than 3200 hours) of clinical social work experience that is acceptable to the Board after receiving a master's degree from an accredited school of social work.
- 3.2 At least 1600 hours of the required 3200 hours of post-degree clinical social work experience shall be under professional supervision acceptable to the Board in accordance with Section 4.0 of these rules and regulations.
 - 3.2.1 Each Applicant shall demonstrate to the satisfaction of the Board through a Board approved form that he or she has satisfactorily completed each of the following practice skills during the 1600 hours of professionally supervised clinical social work experience:
 - 3.2.1.1 Provides adequate clinical diagnoses and biopsychosocial assessments;
 - 3.2.1.2 Performs short-term and/or long-term interventions;
 - 3.2.1.3 Establishes treatment plans with measurable goals;
 - 3.2.1.4 Adapts interventions to maximize client responsiveness;
 - 3.2.1.5 Demonstrates competence in clinical risk assessment and intervention;
 - 3.2.1.6 Recognizes when personal issues affect clinical objectivity;
 - 3.2.1.7 Recognizes and operates within own practice limitations;
 - 3.2.1.8 Seeks consultation when needed;
 - 3.2.1.9 Refers to sources of help when appropriate; and
 - 3.2.1.10 Practices within established ethical and legal parameters.
 - 3.2.2 Use of professional values, professional knowledge, professional identity and use of self and disciplined approach to the practice environment should be reflected in each of the above listed practice skills.

4.0 Professional Supervision

- 4.1 Professional supervision that is acceptable to the Board means a formalized, interactional, professional relationship between a supervisor and a social worker that provides evaluation and direction over the supervisee's practice of clinical social work and promotes continued development of the social worker's knowledge, skills, and abilities to engage in the practice of clinical social work in an ethical and competent manner.
 - 4.1.1 When professional supervision by a licensed clinical social worker is not available, the applicant may be supervised by a master's level degree social worker, a licensed psychologist, or a licensed psychiatrist. To establish that a licensed clinical social worker is or was not available to provide supervision, the applicant shall submit a notarized statement, on a form provided by the Board, explaining the efforts made to obtain such supervision. The Board has the discretion to accept or reject the applicant's statement that supervision by a licensed clinical social worker is or was not available.
- 4.2 Professional supervision is not acceptable to the Board where applicants for licensure have simultaneously supervised one another.
- 4.3 The amount of supervisory contact shall be at least one hour per week during the supervised period. The applicant shall obtain at least 1,600 hours of supervised experience under an approved supervisor, pursuant to the requirements of ~~Board Rule subsection~~ 4.1.1. For any supervision commencing after the effective date of this ~~Rule regulation~~, the supervision shall take place in not less than one year, and, within the required 1,600 hours, at least 100 hours shall be one-to-one, face-to-face supervision provided by an approved supervisor, pursuant to the requirements of ~~Board Rule subsection~~ 4.1.1. For supervision commencing prior to the effective date of this ~~Rule regulation~~, the supervisory contact may be on a one-to-one face-to-face basis or by live video conferencing; provided, however, that supervision by live video conferencing shall not exceed fifty percent (50%) of the total supervision in any month. Supervision by telephone or e-mail is expressly not permitted.
- 4.4 The Board shall require submission of the following information from the supervisor(s): supervisor's name; business address; license number, professional field and State in which the license was granted during the period of supervision; agency in which the supervision took place (if applicable); the number of qualifying practice hours toward the statutory requirement; the number of one-to-one face-to-face supervisory hours; and the number of live video conferencing supervisory hours (if applicable).
- 4.5 A licensed Psychiatrist shall be defined as a licensed Medical Doctor with a specialty in psychiatry or a licensed Doctor of Osteopathic Medicine with a specialty in psychiatry.

5 DE Reg. 1072 (11/1/01)

12 DE Reg. 1435 (05/01/09)

16 DE Reg. 108 (07/01/12)

5.0 Application and Examination

- 5.1 Applications will be kept active and on file for two (2) years. If the applicant fails to meet the licensure requirements and/or pass the examination within two (2) years, the application shall be deemed to have expired and the applicant must reapply in the same manner as for initial application, i.e., by submitting the application documentation along with the proper fee to be eligible to sit for the examination.
- 5.2 The Board will not review incomplete applications.
- 5.3 All signatures must be original on all forms.
- 5.4 The applicant shall have obtained the passing score on the national clinical examination approved by the Association of Social Work Boards (ASWB). The Board shall accept the passing grade as determined by the ASWB.
- 5.5 Any applicant holding a degree from a program outside the United States or its territories must provide the Board with an educational credential evaluation from International Consultants of Delaware, Inc., its successor, or any other similar agency approved by the Board, demonstrating that their training and degree are equivalent to domestic accredited programs. No application is considered complete until the educational credential evaluation is received by the Board. (29 Del.C. § 3907(a)(1))

7 DE Reg. 1667 (6/1/2004)

10 DE Reg. 886 (11/01/06)

6.0 Renewal

- 6.1 The licensee's failure to receive notices or letters concerning renewal will not relieve the licensee of the responsibility to personally assure delivery of his/her renewal application to the Board.
- 6.2 In order to be eligible for license renewal during the first year after expiration, the ~~practitioner~~ licensee shall be required to meet all continuing education credits for continued licensure, pay the licensure fee, and pay any late fee established by the Division of Professional Regulation.

7.0 Continuing Education

- 7.1 Required Continuing Education Hours:
 - 7.1.1 All licensees must complete forty-five (45) hours of continuing education during each biennial license period.
 - 7.1.2 At least three (3) of the 45 hours shall consist of courses acceptable to the Board in the area of ethics for mental health professionals.
 - 7.1.3 No licensee shall earn more than ten (10) hours of continuing education credit from self-directed activity. The maximum number of hours granted for a particular type of self-directed activity is set forth below in Rule subsection 7.2.6.4.
 - 7.1.4 Any course or activity submitted for continuing education credit must have been attended during the biennial licensing period for which it is submitted. Excess credits may not be carried over to the next licensing period.
 - 7.1.5 An "hour" for purposes of continuing education shall mean fifty (50) minutes of instruction or participation in an appropriate course or program. Meals and breaks shall be excluded from credit.
 - 7.1.6 Proration. License renewal periods last two complete calendar years, beginning February 1 and ending January 31 of odd-numbered years, for example, beginning February 1, 2007 and ending January 31, 2009. At the time of the initial license renewal, some individuals will have been licensed for less than two (2) years. Therefore, for these individuals only, the continuing education hours will be prorated as follows:
 - 7.1.6.1 If the license was granted prior to July 1 of an odd-numbered year, the licensee must complete 35 hours of CE during his or her initial licensing period.
 - 7.1.6.2 If the license was granted between July 1 of an odd-numbered year and January 31 of an even-numbered year, the licensee must complete 25 hours of CE during his or her initial licensing period.
 - 7.1.6.3 If the license was granted between February 1 of an even-numbered year and June 30 of that year, the licensee must complete 15 hours of CE during his or her initial licensing period.
 - 7.1.6.4 If the license was granted between July 1 of an even-numbered year and January 31 of an odd-numbered year, the licensee must complete 5 hours of CE during his or her initial licensing period.
 - 7.1.7 Hardship. A candidate for license renewal may be granted an extension of time in which to complete continuing education hours upon a showing of good cause. "Good Cause" may include, but is not limited to, disability, illness, extended absence from the jurisdiction and exceptional family responsibilities.

Requests for hardship consideration must be submitted to the Board in writing prior to the end of the licensing period, along with payment of the appropriate renewal fee. No extension shall be granted for more than 120 days after the end of the licensing period. If the Board does not have sufficient time to consider and approve a request for hardship extension prior to the expiration of the license, the license will lapse upon the expiration date and be reinstated upon completion of continuing education pursuant to the hardship exception.

7.2 Definition and Scope of Continuing Education:

- 7.2.1 Continuing Education is defined to mean acceptable courses offered by colleges and universities, televised and internet courses, independent study courses which have a final exam or paper, workshops, seminars, conferences and lectures oriented toward the enhancement of clinical social work practice, values, skills and knowledge, as well as acceptable self-directed activities as described herein.
- 7.2.2 The following types of courses are NOT acceptable for credit: business, computer, financial, administrative or practice development courses or portions of courses.
- 7.2.3 The Board will not “pre-approve” courses or activities for continuing education credit, except as provided in Rule subsection 7.2.6 with respect to self-directed activities.
- 7.2.4 Approved Courses. The Board will accept for continuing education credit all courses designated for clinical social workers which are offered by the Association of Social Work Boards (ASWB), the National Association of Social Work (NASW), the Clinical Social Work Association (CSWA) and the American Psychological Association (APA) approved providers.
- 7.2.5 Other Courses.
 - 7.2.5.1 The Board will also accept courses which:
 - 7.2.5.1.1 ~~increase the licensed clinical social worker's licensee's~~ increase the licensee's knowledge about skill in diagnosing and assessing, skill in treating, and/or skill in preventing mental and emotional disorders, developmental disabilities and substance abuse; AND
 - 7.2.5.1.2 are instructed or presented by persons who have received specialized graduate-level training in the subject, or who have no less than two (2) years of practical application or research experience pertaining to the subject.
 - 7.2.5.2 For purposes of this Rule subsection, “Mental and emotional disorders,” “developmental disabilities” and “substance abuse” are those disorders enumerated and described in the most current Diagnostic and Statistical Manual including, but not limited to, the V Codes and the Criteria Sets and Axes provided for further study.
- 7.2.6 Self-Directed Activities.
 - 7.2.6.1 The Board will accept a maximum of ten (10) continuing education credits for Self-Directed Activities. The maximum number of credits that will be granted for any particular self-directed activity is indicated in Rule subsection 7.2.6.4 below.
 - 7.2.6.2 To obtain credit for self-directed activity upon renewal of licensure, licensees shall retain documentation of each activity as noted in Rule subsection 7.2.6.4 below:
 - 7.2.6.3 Pre-approval for self-directed activity.
 - 7.2.6.3.1 Licensees may, but are not required to, seek approval of continuing education credit for self-directed activity PRIOR to undertaking the activity IF they submit the following information to the Board by at least two business days prior to a Board meeting preceding the activity. A written proposal outlining the scope of the activity, the number of continuing education hours requested, the anticipated completion date(s), the role of the licensee in the case of multiple participants (e.g. research) and whether any part of the self-directed activity has ever been previously approved or submitted for credit by the same licensee.
 - 7.2.6.4 Self-Directed Activity shall include teaching, research, preparation and/or presentation of professional papers and articles, and other activities specifically approved by the Board, which may include one or more of the following:
 - 7.2.6.4.1 Publication of a professional clinical social work-related book, or initial preparation/presentation of a clinical social work-related college or university course (maximum of 10 hours). Required documentation shall be proof of publication, or syllabus of course and verification that the course was presented.
 - 7.2.6.4.2 Publication of a professional clinical social work-related article or chapter of a book (maximum of 5 hours). Required documentation shall be a reprint of the publication(s).
 - 7.2.6.4.3 Initial preparation/presentation of a professional clinical social work-related continuing education course/program (maximum of 2 hours, in addition to number of hours actually attended at the course/program) (Will only be accepted one time for any specific program).

Required documentation shall be an outline, syllabus, agenda and objectives for the course, and verification that the course was presented

- 7.2.6.4.4 One year of field instruction of graduate students in a Council on Social Work Education-accredited school program, in a clinical setting (maximum of 2 hours). Required documentation shall be a letter of verification from the school for social work.
- 7.2.6.4.5 Participation in formal clinical staffing at federal, state or local social service agencies, public school systems or licensed health facilities and licensed hospitals (maximum of 5 hours). Required documentation shall be a signed statement from the agency, school system, facility or hospital, from a supervisor other than the licensee, including date and length of staffing.

7.3 Continuing Education Reporting and Documentation

- 7.3.1 Continuing Education Reporting Periods. Licenses are valid for 2 year periods ending January 31 of odd numbered years (e.g. January 31, 2005, 2007). Continuing education (CE) reporting periods run concurrently with the biennial licensing period. ~~In the transition period, CE earned between November 1, 2006 and January 31, 2007 may be counted toward the required CE for the licensing period ending January 31, 2007 or the licensing period ending January 31, 2009, but not both.~~ The Board shall continue to have the discretion, however, to grant extensions of time in which to complete continuing education in cases of hardship, pursuant to 24 **Del.C.** §3912 and Rule subsection 7.1.7.

- 7.3.2 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the requirements of Rule Section 7.0.

- 7.3.2.1 Attestation ~~may shall~~ be completed electronically ~~if the renewal is accomplished online. In the alternative, paper renewal documents that contain the attestation of completion may be submitted.~~

- 7.3.2.2 Licensees selected for random audit will be required to supplement the attestation with attendance verification pursuant to Rule subsection 7.3.3.3.

- 7.3.3 Random audits will be performed by the Board to ensure compliance with the CEU requirements.

- 7.3.3.1 The Board will notify licensees within sixty (60) days after January 31 that they have been selected for audit.

- 7.3.3.2 Licensees selected for random audit shall be required to submit verification within ten (10) days of receipt of notification of selection for audit.

- 7.3.3.3 Verification shall include such information necessary for the Board to assess whether the course or other activity meets the CE requirements in Rule Section 7.0, which may include, but is not limited to, the following information:

- 7.3.3.3.1 Proof of attendance;
 - 7.3.3.3.2 Date of CE course;
 - 7.3.3.3.3 Title of CE course;
 - 7.3.3.3.4 Course agenda, brochure, outline or syllabus;
 - 7.3.3.3.5 Instructor of CE course;
 - 7.3.3.3.6 Sponsor of CE course;
 - 7.3.3.3.7 Proof of clinical content; and
 - 7.3.3.3.8 Number of hours of CE course.

- 7.3.4 The Board shall review all documentation submitted by licensees pursuant to the CE audit. If the Board determines that the licensee has met the CE requirements, his or her license shall remain in effect. If the Board determines that the licensee has not met the CE requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. The hearing will be conducted to determine if there are any extenuating circumstances justifying the noncompliance with the CE requirements. Unjustified noncompliance with the CE requirements set forth in these rules and regulations shall constitute a violation of 24 **Del.C.** §3915(a)(5) and the licensee may be subject to one or more of the disciplinary sanctions set forth in 24 **Del.C.** §3916.

- 7.3.5 Failure to notify the Board of a change in mailing address will not absolve the licensee from audit requirements, including possible sanctions for non-compliance.

2 DE Reg. 775 (11/1/98)

2 DE Reg. 1680 (6/1/00)

4 DE Reg. 1815 (5/1/01)

7 DE Reg. 1667 (6/1/04)

8 DE Reg. 880 (12/1/04)

8 DE Reg. 265 (8/1/05)

10 DE Reg. 886 (11/01/06)

8.0 Inactive Status (~~24 Del.C. § 3911(c)~~)

- 8.1 The Board's grant of inactive status to a licensee shall expire on the next January 31 without regard to the date inactive status was requested or granted. The Board may renew inactive status for additional one year periods. Any extension or renewal of inactive status shall expire on January 31.
- 8.2 Change from active to inactive status. A licensee asking to have his/her license placed on inactive status must notify the Board of his/her intention to do so, in writing, prior to the expiration of his/her current license. A licensee on inactive status must comply with Rule Section 7.0, "Continuing Education," for each period of inactivity.
- 8.3 Renewal of inactive status. Each subsequent request for extensions of inactive status must be submitted to the Board in writing, before the end of the immediately prior inactive period. Any renewal of inactive status shall expire on the next January 31.
- 8.4 Change from inactive to active status. A licensee on inactive status seeking to re-enter practice may apply for a change of status in one of the following two ways:
 - 8.4.1 Where the licensee on inactive status seeks to change to active status at the beginning of a new biennial licensure period (February 1 of an odd numbered year), the licensee may use the online renewal process to renew his license and resume active status.
 - 8.4.2 At all other times during a biennial licensing period, an inactive licensee seeking to resume active practice must notify the Board in writing of his/her intention, pay the appropriate fee, and provide the Board with documentation of any continuing education hours required by Rule Section 7.0.
- 8.5 On written request and a showing of hardship, as defined in Rule subsection 7.1.7, the Board may grant additional time for completion of continuing education requirements to licensees returning to practice from inactive status.

2 DE Reg. 775 (11/1/98)

3 DE Reg. 1680 (6/1/00)

10 DE Reg. 886 (11/01/06)

9.0 Code of Ethics

- 9.1 Duties to Client
 - 9.1.1 The ~~LCSW's~~ licensee's primary responsibility is the welfare of the client.
 - 9.1.2 In providing services, the ~~LCSW~~ licensee must not discriminate on the basis of age, sex, race, color, religion/ spirituality, national origin, disability, political affiliation, or sexual orientation.
 - 9.1.3 When a client needs other community services or resources, the ~~LCSW~~ licensee has the responsibility to assist the client in securing the appropriate services.
 - 9.1.4 The ~~LCSW~~ licensee should refer a client to other service providers in the event that the ~~LCSW~~ licensee cannot provide the service requested. In the case of a referral, no commission, rebate or any other remuneration may be given or received for referral of clients for professional services, whether by an individual or an organization.
 - 9.1.5 The ~~LCSW~~ licensee must, in cases where professional services are requested by a person already receiving therapeutic assistance from another professional, clarify with the client and the other professional the scope of services and division of responsibility which each professional will provide.
 - 9.1.6 The ~~LCSW~~ licensee must maintain appropriate boundaries in his/her interactions with a client. The ~~LCSW~~ licensee must not engage in sexual activity with a client. The ~~LCSW~~ licensee must not treat a family member or close personal friend where detached judgment or objectivity would be impaired. Business, social or professional relationships with a client (outside of the counseling relationship) should be avoided, where such relationships may influence or impair the ~~LCSW's~~ licensee's professional judgment.
- 9.2 Confidentiality/privileged Communications
 - 9.2.1 The ~~LCSW~~ licensee must safeguard the confidentiality of information given by clients in the course of client services.
 - 9.2.2 The ~~LCSW~~ licensee must discuss with clients the nature of and potential limits to confidentiality that may arise in the course of therapeutic work.
 - 9.2.3 No ~~LCSW~~ licensee or employee of such person may disclose any confidential information they may have acquired from persons consulting them in their professional capacity except under the following conditions:
 - 9.2.3.1 With the written consent of the person or persons (the guardian, in the case of a minor) or, in the case of death or disability, of his/her personal representative, or person authorized to sue, or the beneficiary of an insurance policy on his/her life, health or physical condition, or

- 9.2.3.2 Where the communication reveals the planning of any violent crime or act.
- 9.2.3.3 When the person waives the privilege by initiating formal charges against the LCSW licensee.
- 9.2.3.4 When otherwise specifically required by law or judicial order.

9.2.4 The disclosure of confidential information, as permitted by Rule subsection 7.2.3, is restricted to what is necessary, relevant, verifiable and based on the recipients' need to know. The LCSW licensee should, provided it will not adversely affect the client's condition, inform the client about the nature and scope of the information being disclosed, to whom the information will be released and the purpose for which it is sought.

9.3 Ethical Practice

- 9.3.1 The LCSW licensee is responsible for confining his/her practice to those areas in which he/she is legally authorized and in which he/she is qualified to practice. When necessary the LCSW licensee should utilize the knowledge and experience of members of other professions.
- 9.3.2 The LCSW licensee is responsible for providing a clear description of what the client may expect in the way of scheduling services, fees and any other charges or reports
- 9.3.3 The LCSW licensee, or any employee or supervisee of the LCSW licensee, must be accurately identified on any bill as the person providing a particular service, and the fee charged the client should be at the LCSW's licensee's usual and customary rate. Sliding fee scales are permissible.
- 9.3.4 An LCSW licensee employed by an agency or clinic, and also engaged in private practice, must conform to contractual agreements with the employing facility. He/She must not solicit or accept a private fee or consideration of any kind for providing a service to which the client is entitled through the employing facility.
- 9.3.5 An LCSW licensee having direct knowledge of a colleague's impairment, incompetence or unethical conduct should take adequate measures to assist the colleague in taking remedial action. In cases where the colleague does not address the problem, or in any case in which the welfare of a client appears to be in danger, the LCSW licensee should report the impairment, incompetence or unethical conduct to the Board.
- 9.3.6 The Board has voted to adopt the Voluntary Treatment Option, in accordance with 29 **Del.C.** §8807(n).
- 9.3.7 An LCSW licensee should safeguard the welfare of clients who willingly participate as research subjects. The LCSW licensee must secure the informed consent of any research participant and safeguard the participant's interests and rights.
- 9.3.8 In advertising his or her services, the LCSW licensee may use any information so long as it describes his/her credentials and the services provided accurately and without misrepresentation.
- 9.3.9 ~~In the areas of computer and Internet technology and non-established practice, the LCSW should inform the client of risks involved. The LCSW should exercise careful judgment and should take responsible steps (such as research, supervision, and training) to ensure the competence of the work and the protection of the client. All precautions should be taken with computer-based communications to ensure that no confidential information is disseminated to the wrong individual and identities are protected with respect to privacy.~~

9.4 Clinical Supervision

- 9.4.1 The LCSW licensee should ensure that supervisees inform clients of their status as interns, and of the requirements of supervision (review of records, audiotaping, videotaping, etc.). The client shall sign a statement of informed consent attesting that services are being delivered by a supervisee and that the LCSW licensee is ultimately responsible for the services. This document shall include the supervising LCSW's licensee's name and the telephone number where he/she can be reached. One copy shall be filed with the client's record and another given to the client. The LCSW licensee must intervene in any situation where the client seems to be at risk.
- 9.4.2 The LCSW licensee should inform the supervisee about the process of supervision, including goals, case management procedures, and agency or clinic policies.
- 9.4.3 The LCSW licensee must avoid any relationship with a supervisee that may interfere with the supervisor's professional judgment or exploit the supervisee.
- 9.4.4 The LCSW licensee must refrain from endorsing an impaired supervisee when such impairment deems it unlikely that the supervisee can provide adequate professional services.
- 9.4.5 The LCSW licensee must refrain from supervising in areas outside his/her realm of competence. Statutory Authority: 24 **Del.C.** §§3901, 3906(1)(6)(9), 3913, 3915.

3 DE Reg. 1680 (6/1/00)

10.0 Telehealth

- 10.1 Preamble: "Telehealth" means the practice of social work by distance communication technology, such as, but not necessarily limited to, telephone, email, Internet-based communications, and videoconferencing. Telehealth is not intended to be the primary means of providing services to a client. The licensee shall use telehealth only where appropriate based on his or her professional judgment.
- 10.2 The licensee who provides treatment through telehealth shall meet the following requirements:
 - 10.2.1 The licensee shall have an active Delaware license in good standing; and
 - 10.2.2 During the telehealth treatment session, the client shall be located within the borders of the State of Delaware.
- 10.3 The licensee practicing social work through telehealth shall comply with the Board's Practice Act, Chapter 39 of Title 24 of the Delaware Code, rules and regulations and current standard of care requirements applicable to onsite care.
- 10.4 The licensee shall establish and maintain current competence in the use of telehealth through continuing education, consultation, or other procedures, in conformance with prevailing standards of scientific and professional knowledge. The licensee shall establish and maintain competence in the appropriate use of the information technologies utilized in telehealth.
- 10.5 The licensee shall use telehealth only where it is appropriate for the client, and decisions regarding the appropriate use of telehealth shall be made on a case-by-case basis.
- 10.6 The licensee shall use telehealth only where the client is at least 18 years old.
- 10.7 The licensee shall be aware of the additional risks incurred when practicing social work through the use of distance communication technologies and take special care to conduct professional practice in a manner that protects the welfare of the client and ensures that the client's welfare is paramount.
- 10.8 Prior to delivering services by telehealth, the licensee shall conduct a risk-benefit analysis and document that:
 - 10.8.1 The client's presenting problems and apparent condition are consistent with the use of telehealth to the client's benefit; and
 - 10.8.2 The client has sufficient knowledge and skills in the use of the technology involved in rendering the service or can use a personal aid or assistive device to benefit from the service.
- 10.9 Prior to delivery of services by telehealth, the licensee shall obtain written, informed consent from the client, or other appropriate person with authority to make health care decisions for the client, in language that is likely to be understood and is consistent with accepted professional and legal requirements. Where the licensee cannot obtain written informed consent at the outset of care due to emergency circumstances, the licensee shall obtain verbal informed consent to be followed by written informed consent as soon as reasonably possible. At minimum, the informed consent shall inform the client of:
 - 10.9.1 The limitations and innovative nature of using telehealth in the provision of social work services;
 - 10.9.2 Potential risks to confidentiality of information due to the use of telehealth;
 - 10.9.3 Potential risks of sudden and unpredictable disruption of telehealth services and how an alternative means of re-establishing electronic or other connection will be used under such circumstances;
 - 10.9.4 When and how the licensee will respond to routine electronic messages;
 - 10.9.5 Under what circumstances the licensee and client will use alternative means of communications;
 - 10.9.6 Who else may have access to communications between the client and the licensee;
 - 10.9.7 Specific methods for ensuring that a client's electronic communications are directed only to the licensee; and
 - 10.9.8 How the licensee stores electronic communications exchanged with the client.
- 10.10 Upon initial and subsequent contacts with the client by telehealth, the licensee shall make reasonable efforts to verify the identity of the client.
- 10.11 Upon initial contact, the licensee shall: obtain alternative means of contacting the client; provide to the client alternative means of contacting the licensee; and establish a written agreement relative to the client's access to face-to-face emergency services in the client's geographical area, in instances such as, but not necessarily limited to, the client experiencing a suicidal or homicidal crisis.
- 10.12 The licensee shall use telehealth with a client for not more than 60 days. The licensee shall meet with the client face-to-face at least once every 60 days. All evaluations, including initial evaluations, and re-evaluations and scheduled discharges shall be performed face to face and not through telehealth.
- 10.13 The licensee shall document in the file or record which services were provided by telehealth.
- 10.14 Confidentiality: The licensee shall ensure that the electronic communication is secure to maintain confidentiality of the client's health and/or educational information as required by the Health Insurance Portability and Accountability Act (HIPAA) and other applicable Federal and State laws. Confidentiality shall be

maintained through appropriate processes, practices and technology, including disposal of electronic equipment and data.

10.15 In the context of a face-to-face professional relationship, the following are exempt from this Section:

10.15.1 Electronic communication used specific to appointment scheduling, billing, and/or the establishment of benefits and eligibility for services; and,

10.15.2 Telephonic or other electronic communications made for the purpose of ensuring client welfare in accord with reasonable professional judgment.

101.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

101.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

101.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

101.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

101.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

101.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection 10.8 of this section.

101.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

101.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

101.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

101.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

101.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its

services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

101.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/ her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

101.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

101.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

101.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

101.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

101.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

101.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

101.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

3 DE Reg. 1680 (6/1/00)

7 DE Reg. 1667 (6/1/04)

142.0 Crimes substantially related to the practice of social work:

142.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of social work in the State of Delaware without regard to the place of conviction:

142.1.1 Aggravated menacing. 11 **Del.C.** §602(b).

142.1.2 Reckless endangering in the first degree. 11 **Del.C.** §604.

142.1.3 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605.

142.1.4 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606.

142.1.5 Assault in the second degree. 11 **Del.C.** §612.

142.1.6 Assault in the first degree. 11 **Del.C.** §613.

142.1.7 Abuse of a sports official; felony. 11 **Del.C.** §614.

142.1.8 Assault by abuse or neglect. 11 **Del.C.** §615.

142.1.9 Terroristic threatening; felony. 11 **Del.C.** §621.

142.1.10 Unlawfully administering drugs. 11 **Del.C.** §625.

142.1.11 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 **Del.C.** §626.

142.1.12 Manslaughter. 11 **Del.C.** §632.

142.1.13 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633.

142.1.14 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.

142.1.15 Murder in the second degree. 11 **Del.C.** §635.

142.1.16 Murder in the first degree. 11 **Del.C.** §636.

142.1.17 Promoting suicide. 11 **Del.C.** §645.

142.1.18 Abortion. 11 **Del.C.** §651.

142.1.19 Incest. 11 **Del.C.** §766.

142.1.20 Unlawful sexual contact in the third degree. 11 **Del.C.** §767.

142.1.21 Unlawful sexual contact in the second degree. 11 **Del.C.** §768.

142.1.22 Unlawful sexual contact in the first degree. 11 **Del.C.** §769.

142.1.23 Rape in the fourth degree. 11 **Del.C.** §770.

142.1.24 Rape in the third degree. 11 **Del.C.** §771.

142.1.25 Rape in the second degree. 11 **Del.C.** §772.

142.1.26 Rape in the first degree. 11 **Del.C.** §773.

142.1.27 Sexual extortion. 11 **Del.C.** §776.

142.1.28 Bestiality. 11 **Del.C.** §777.

142.1.29 Continuous sexual abuse of a child. 11 **Del.C.** §778.

142.1.30 Dangerous crime against a child. 11 **Del.C.** §779.

142.1.31 Female genital mutilation. 11 **Del.C.** §780.

142.1.32 Unlawful imprisonment in the first degree. 11 **Del.C.** §782.

142.1.33 Kidnapping in the second degree. 11 **Del.C.** §783.

142.1.34 Kidnapping in the first degree. 11 **Del.C.** §783A.

142.1.35 Acts constituting coercion. 11 **Del.C. B.**

142.1.36 Arson in the first degree. 11 **Del.C.** §803.

142.1.37 Burglary in the third degree. 11 **Del.C.** §824.

142.1.38 Burglary in the second degree. 11 **Del.C.** §825.

142.1.39 Burglary in the first degree. 11 **Del.C.** §826.

142.1.40 Possession of burglar's tools or instruments facilitating theft. 11 **Del.C.** §828.

142.1.41 Robbery in the second degree. 11 **Del.C. B.**

142.1.42 Robbery in the first degree. 11 **Del.C.** §832.

142.1.43 Carjacking in the second degree. 11 **Del.C.** §835.

142.1.44 Carjacking in the first degree. 11 **Del.C.** §836.

142.1.45 Extortion. 11 **Del.C.** §846.

142.1.46 Identity theft. 11 **Del.C.** §854.

142.1.47 Forgery. 11 **Del.C.** §861.

142.1.48 Falsifying business records. 11 **Del.C.** §871.

142.1.49 Tampering with public records in the second degree. 11 **Del.C.** §873.

142.1.50 Tampering with public records in the first degree. 11 **Del.C.** §876.

142.1.51 Issuing a false certificate. 11 **Del.C.** §878.

142.1.52 Criminal impersonation. 11 **Del.C.** §907.

142.1.53 Criminal impersonation, accident related. 11 **Del.C.** §907A.

142.1.54 Criminal impersonation of a police officer. 11 **Del.C.** §907B.

142.1.55 Insurance fraud. 11 **Del.C.** §913.

142.1.56 Health care fraud. 11 **Del.C.** §913A.

142.1.57 Misuse of computer system information. 11 **Del.C.** §935.

142.1.58 Dealing in children. 11 **Del.C.** §1100.

142.1.59 Endangering the welfare of a child. 11 **Del.C.** §1102.

142.1.60 Endangering the welfare of an incompetent person. 11 **Del.C.** §1105.

142.1.61 Sexual exploitation of a child. 11 **Del.C.** §1108.

142.1.62 Unlawfully dealing in child pornography. 11 **Del.C.** §1109.

142.1.63 Possession of child pornography. 11 **Del.C.** §1111.

142.1.64 Sexual offenders; prohibitions from school zones. 11 **Del.C.** §1112.

142.1.65 Sexual solicitation of a child. 11 **Del.C.** §1112A.

142.1.66 Perjury in the second degree. 11 **Del.C.** §1222.

142.1.67 Perjury in the first degree. 11 **Del.C.** §1223.

142.1.68 Making a false written statement. 11 **Del.C.** §1233.

142.1.69 Terroristic threatening of public officials or public servants. 11 **Del.C.** §1240.

142.1.70 Assault in a detention facility; Class B felony. 11 **Del.C.** §1254.

142.1.71 Sexual relations in a detention facility. 11 **Del.C.** §1259.

142.1.72 Bribing a witness. 11 **Del.C.** §1261.

142.1.73 Bribe receiving by a witness. 11 **Del.C.** §1262.

142.1.74 Tampering with a witness. 11 **Del.C.** §1263.

142.1.75 Interfering with child witness. 11 **Del.C.** §1263A.

142.1.76 Bribing a juror. 11 **Del.C.** §1264.

142.1.77 Bribe receiving by a juror. 11 **Del.C.** §1265.

142.1.78 Tampering with physical evidence. 11 **Del.C.** §1269.

142.1.79 Criminal contempt of a domestic violence protective order. 11 **Del.C.** §1271A.

142.1.80 Hate crimes. 11 **Del.C.** §1304.

142.1.81 Aggravated harassment. 11 **Del.C.** §1312.

142.1.82 Stalking; felony. 11 **Del.C.** §1312A.

142.1.83 Cruelty to animals; felony. 11 **Del.C.** §1325.

142.1.84 Violation of privacy. 11 **Del.C.** §1335.

142.1.85 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 **Del.C.** §1338.

142.1.86 Adulteration. 11 **Del.C.** §1339.

142.1.87 Promoting prostitution in the first degree. 11 **Del.C.** §1353.

142.1.88 Possessing a destructive weapon. 11 **Del.C.** §1444.

142.1.89 Unlawfully dealing with a dangerous weapon; felony. 11 **Del.C.** §1445.

142.1.90 Organized Crime and Racketeering. 11 **Del.C.** §1504.

142.1.91 Victim or Witness Intimidation. 11 **Del.C.** §3532 & 3533.

142.1.92 Abuse, neglect, mistreatment or financial exploitation of residents or patients. 16 **Del.C.** §1136(a), (b) and (c).

142.1.93 Prohibited acts A under the Uniform Controlled Substances Act. 16 **Del.C.** §4751(a), (b) and (c).

142.1.94 Prohibited acts B under the Uniform Controlled Substances Act. 16 **Del.C.** §4752(a) and (b).

142.1.95 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 **Del.C.** §4753A (a)(1)-(9).

142.1.96 Distribution to persons under 21 years of age. 16 **Del.C.** §4761.

142.1.97 Purchase of drugs from minors. 16 **Del.C.** §4761A.

142.1.98 Drug paraphernalia; delivery to a minor 16 **Del.C.** §4774 (c).

142.1.99 Obtaining benefit under false representation. 31 **Del.C.** §1003.

142.1.100 Reports, statements and documents. 31 **Del.C.** §1004.

142.1.101 Kickback schemes and solicitations. 31 **Del.C.** §1005.

142.1.102 Conversion of payment. 31 **Del.C.** §1006.

142.1.103 Driving a vehicle while under the influence or with a prohibited alcohol content; third and fourth offenses. 21 **Del.C.** §4177 (3) and (4).

142.1.104 Prohibited trade practices against infirm or elderly. 6 **Del.C.** §2581.

142.1.105 Prohibition of intimidation [under the Fair Housing Act]; felony. 6 **Del.C.** §4619.

142.1.106 Auto Repair Fraud victimizing the infirm or elderly. 6 **Del.C.** §4909A.

142.1.107 Interception of Communications Generally; Divulging Contents of Communications. 11 **Del.C.** §2402.

142.1.108 Manufacture, Possession or Sale of Intercepting Device. 11 **Del.C.** §2403.

142.1.109 Breaking and Entering, Etc. to Place or Remove Equipment. 1 **Del.C.** §2410.

142.1.110 Obstruction, Impediment or Prevention of Interception. 11 **Del.C.** §2412.

142.1.111 Obtaining, Altering or Preventing Authorized Access. 11 **Del.C.** §2421.

142.1.112 Divulging Contents of Communications. 11 **Del.C.** §2422.

142.1.113 Installation and Use Generally [of pen trace and trap and trace devices]. 11 **Del.C.** §243.

142.1.114 Attempt to Intimidate. 11 **Del.C.** §3534.

142.1.115 Disclosure of Expunged Records. 11 **Del.C.** § 4374.

142.1.116 Providing false information when seeking employment in a public school. 11 **Del.C.** §8572.

142.1.117 Failure of Physician to file report of abuse of neglect pursuant to 16 **Del.C.** §903.

142.1.118 Coercion or intimidation involving health-care decisions and falsification, destruction of a document to create a false impression that measures to prolong life have been authorized; felony. 16 **Del.C.** §2513 (b).

142.1.119 Failure of Physician to report persons subject to loss of consciousness. 24 **Del.C.** §1763.

142.1.120 Abuse, neglect, exploitation or mistreatment of infirm adult. 31 **Del.C.** §3913(a), (b) and (c).

142.2 Crimes substantially related to the practice of social work shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this ~~rule~~ regulation.

8 DE Reg. 1600 (05/01/05)

2 DE Reg. 775 (11/1/98)

2 DE Reg. 1680 (6/1/00)

4 DE Reg. 1815 (5/1/01)

5 DE Reg. 1072 (11/1/01)

7 DE Reg. 1667 (6/1/04)

8 DE Reg. 880 (12/1/04)

8 DE Reg. 265 (8/1/05)

10 DE Reg. 886 (11/01/06)

12 DE Reg. 1435 (05/01/09)

16 DE Reg. 108 (07/01/12)

19 DE Reg. 1003 (05/01/16) (Prop.)