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Texas Administrative Code
Part 34, Chapter 781

Rules Relating to the Licensing and Regulation of Social Workers

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TABLE OF CONTENTS
Rules of the Texas State Board of Social Worker Examiners
Title 22 Texas Administrative Code, Chapter 781

PAGE	SECTION	TITLE
1	**Subchapter A**	**General Provisions**
1	§781.101	Purpose and Scope
1	§781.102	Definitions
2	**Subchapter B**	**Code Of Conduct And Professional Standards Of Practice**
2	§781.201	Code of Conduct
2	§781.202	The Practice of Social Work
2	§781.203	General Standards of Practice
2	§781.204	Relationships with Clients
2	§781.205	Sexual Misconduct
2	§781.206	Professional Representation
2	§781.207	Testing
2	§781.208	Drug and Alcohol Use
2	§781.209	Client Records and Record Keeping
2	§781.210	Billing and Financial Relationships
2	§781.211	Client Confidentiality
2	§781.212	Licensees and the Board
2	§781.213	Corporations and Business Names
2	§781.214	Consumer Information
2	§781.215	Display of License Certificate
2	§781.216	Advertising and Announcements
2	§781.217	Research and Publications
2	§781.218	Providing Social Studies
2	§781.219	Licensed Sex Offender Treatment
2	§781.220	Parent Coordination
2	§781.221	Parenting Facilitation
3	**Subchapter C**	**The Board**
3	§781.301	Board Rules
3	§781.302	Board Meetings
3	§781.303	Board Training
3	§781.304	Transaction of Official Board Business
3	§781.305	Board Agendas
3	§781.306	Board Minutes
3	§781.307	Elections
3	§781.308	Officers of the Board
3	§781.309	Committees of the Board

3	§781.310	Executive Director
3	§781.311	Official Records of the Board
3	§781.312	Impartiality and Non-discrimination
3	§781.313	Applicants with Disabilities
3	§781.314	The License
3	§781.315	Roster of Licensees
3	§781.316	Fees
3	§781.317	Criminal History Evaluation Letter
4	**Subchapter D**	**Licenses And Licensing Process**
4	§781.401	Qualifications for Licensure
4	§781.402	Clinical Supervision for LCSW and Non-Clinical Supervision for LMSW-AP and Independent Practice Recognition
4	§781.403	Independent Practice Recognition (Non-Clinical)
4	§781.404	Recognition as a Board-approved Supervisor and the Supervision Process
4	§781.405	Application for Licensure
4	§781.406	Required Documentation of Qualifications for Licensure
4	§781.407	Fitness of Applicants for Licensure
4	§781.408	Materials Considered in Determination of Fitness of Applicants
4	§781.409	Finding of Non-fitness
4	§781.410	Provisional Licenses
4	§781.411	Temporary License
4	§781.412	Examination Requirement
4	§781.413	Alternate Method of Examining Competency (AMEC) Program
4	§781.414	Issuance of License Certificates
4	§781.415	Application Denial
4	§781.416	Required Reports to the Board
4	§781.417	Surrender of License
4	§781.418	Issuance of Licenses to Certain Out-of-State Applicants
4	§781.419	Licensing of Military Service Members, Military Veterans, and Military Spouses
5	**Subchapter E**	**License Renewal And Continuing Education**
5	§781.501	General
5	§781.502	Renewal Cycles
5	§781.503	License Renewal
5	§781.504	Late Renewal
5	§781.505	Inactive Status
5	§781.506	Emeritus Status
5	§781.507	Active Military Duty

5	§781.508	Hour Requirements for Continuing Education
5	§781.509	Types of Acceptable Continuing Education
5	§781.510	Activities Unacceptable as Continuing Education
5	§781.511	Requirements for Continuing Education Providers
5	§781.512	Evaluation of Continuing Education Providers
5	§781.513	Acceptance of Continuing Education Approved by Another Licensing Board
5	§781.514	Credit Hours Granted
5	§781.515	Continuing Education Documentation
5	§781.516	Requirements of Supervisor Training Course Providers
5	§781.517	Evaluation of Supervisor Training Course Providers
6	**Subchapter F**	**Complaints And Violations**
6	§781.601	Purpose
6	§781.602	Disciplinary Action and Notices
6	§781.603	Complaint Procedures
6	§781.604	Ethics Committee Meetings and Policy
6	§781.605	Informal Conferences
6	§781.606	Licensing of Persons with Criminal Backgrounds
6	§781.607	Suspension, Revocation, or Non-renewal
6	§781.608	Informal Disposition
6	§781.609	Monitoring of Licensees
6	§781.610	Due Process Following Violation of an Order
7	**Subchapter G**	**Formal Hearings**
7	§781.701	Purpose
7	§781.702	Notice
7	§781.703	Default
7	§781.704	Action after Hearing
8	**Subchapter H**	**Sanction Guidelines**
8	§781.801	Purpose
8	§781.802	Relevant Factors
8	§781.803	Severity Level and Sanction Guide
8	§781.804	Other Disciplinary Actions
8	§781.805	State Office of Administrative Hearings
8	§781.806	Probation
8	§781.807	Release from Probation
8	§781.808	Peer Assistance Program

SUBCHAPTER A. GENERAL PROVISIONS.

§781.101. Purpose and Scope.

(a) This chapter implements the provisions in the Social Work Practice Act (Act), Texas Occupations Code, Chapter 505, concerning the licensure and regulation of social workers.

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

(c) This chapter covers the organization, administration, and general procedures and policies of the Texas State Board of Social Worker Examiners.

(d) The Act and this chapter apply to every licensee even if the licensee is involved in activities or services exempt under the Act, §505.003.

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

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

(2) Act--The Social Work Practice Act, Texas Occupations Code, Chapter 505, concerning the licensure and regulation of social workers.

(3) ALJ--An Administrative Law Judge within the State Office of Administrative Hearings who conducts hearings under this chapter.

(4) Agency--A public or private employer, contractor or business entity providing social work services.

(5) AMEC--Alternative method of examining competency, as referenced in Texas Occupations Code, §505.356(3), regarding reexamination.

(6) APA--The Administrative Procedure Act, Government Code, Chapter 2001.

(7) Assessment--An ongoing process of gathering information about and reaching an understanding of the client or client group's characteristics, perceived concerns and real problems, strengths and weaknesses, and opportunities and constraints; assessment may involve administering, scoring and interpreting instruments designed to measure factors about the client or client group.

(8) Association of Social Work Boards (ASWB)--The international organization which represents regulatory boards of social work and administers the national examinations utilized in the assessment for licensure.

(9) Board--Texas State Board of Social Worker Examiners.

(10) Case record--Any information related to a client and the services provided to that client, however recorded and stored.

(11) Client--An individual, family, couple, group or organization that receives social work services from a person identified as a social worker who is either licensed or unlicensed by the board.

(12) Clinical social work--A specialty within the practice of master social work that requires applying social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, and/or persons who are adversely affected by social or psychosocial stress or health impairment. Clinical social work practice involves using specialized clinical knowledge and advanced clinical skills to assess, diagnose, and treat mental, emotional, and behavioral disorders, conditions and addictions, including severe mental illness and serious emotional disturbances in adults, adolescents and children. Treatment methods may include, but are not limited to, providing individual, marital, couple, family, and group

psychotherapy. Clinical social workers are qualified and authorized to use the Diagnostic and Statistical Manual of Mental Disorders (DSM), the International Classification of Diseases (ICD), Current Procedural Terminology (CPT) codes, and other diagnostic classification systems in assessment, diagnosis, and other practice activities. The practice of clinical social work is restricted to either a Licensed Clinical Social Worker, or a Licensed Master Social Worker under clinical supervision in employment or under a clinical supervision plan.

(13) Confidential information--Individually identifiable information relating to a client, including the client's identity, demographic information, physical or mental health condition, the services the client received, and payment for past, present, or future services the client received or will receive. Confidentiality is limited in cases where the law requires mandated reporting, where third persons have legal rights to the information, and where clients grant permission to share confidential information.

(14) Completed application--The official social work application form, fees and all supporting documentation which meet the criteria set out in this chapter.

(15) Conditions of exchange--Setting reimbursement rates or fee structures, as well as business rules or policies involving issues such as setting and cancelling appointments, maintaining office hours, and managing insurance claims.

(16) Contested case--A proceeding in accordance with the APA and this chapter, including, but not limited to, rule enforcement and licensing, in which the board determines the party's legal rights, duties, or privileges after the party has an opportunity for a hearing.

(17) Counseling, clinical--The use of clinical social work to assist individuals, couples, families or groups in learning to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

(18) Counseling, supportive--The methods used to help individuals create and maintain adaptive patterns. Such methods may include, but are not limited to, building community resources and networks, linking clients with services and resources, educating clients and informing the public, helping clients identify and build strengths, leading community groups, and providing reassurance and support.

(19) Consultation--Providing advice, opinions and conferring with other professionals regarding social work practice.

(20) Continuing education--Education or training aimed at maintaining, improving, or enhancing social work practice.

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

(22) Department--Department of State Health Services.

(23) Direct practice--Providing social work services through personal contact and immediate influence to help clients achieve goals.

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

(25) Electronic practice--Interactive social work practice that is aided by or achieved through technological methods, such as the web, the Internet, social media, electronic chat groups, interactive TV, list serves, cell phones, telephones, faxes, and other emerging technology.

(26) Endorsement--The process whereby the board reviews licensure requirements a professional has completed while under

another jurisdiction's regulatory authority. The board may accept, deny or grant partial credit for requirements completed in a different jurisdiction.

(27) Examination--A standardized test or examination, approved by the board, which measures an individual's social work knowledge, skills and abilities.

(28) Exploitation--Using a pattern, practice or scheme of conduct that can reasonably be construed as primarily meeting the licensee's needs or benefitting the licensee rather than being in the best interest of the client. Exploitation involves the professional taking advantage of the inherently unequal power differential between client and professional. Exploitation also includes behavior at the expense of another practitioner. Exploitation may involve financial, business, emotional, sexual, verbal, religious and/or relational forms.

(29) Field placement--A formal, supervised, planned, and evaluated experience in a professional setting under the auspices of a CSWE-accredited social work program and meeting CSWE standards.

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

(31) Fraud--A social worker's misrepresentation or omission about qualifications, services, finances, or related activities or information, or as defined by the Texas Penal Code or by other state or federal law.

(32) Full-time experience--Providing social work services thirty or more hours per week.

(33) Group supervision for licensure or for specialty recognition--Providing supervision to a minimum of two and a maximum of six supervisees in a designated supervision session.

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

(35) Impaired professional--A licensee whose ability to perform social work services is impaired by the licensee's physical health, mental health, or by medication, drugs or alcohol.

(36) Independent clinical practice--The practice of clinical social work in which the social worker, after having completed all requirements for clinical licensure, assumes responsibility and accountability for the nature and quality of client services, pro bono or in exchange for direct payment or third party reimbursement. Independent clinical social work occurs in independent settings.

(37) Independent non-clinical practice--The unsupervised practice of non-clinical social work outside the jurisdiction of an organizational setting, in which the social worker, after having completed all requirements for independent non-clinical practice recognition, assumes responsibility and accountability for the nature and quality of client services, pro bono or in exchange for direct payment or third party reimbursement.

(38) Independent Practice Recognition--A specialty recognition related to unsupervised non-clinical social work at the LBSW or LMSW category of licensure, which denotes that the licensee has earned the specialty recognition, commonly called IPR, by successfully completing additional supervision which enhances skills in providing independent non-clinical social work.

(39) Individual supervision for licensure or specialty recognition--Supervision for professional development provided to one supervisee during the designated supervision session.

(40) Investigator--A department employee or other authorized person whom the board uses

to investigate allegations of professional misconduct.

(41) LBSW--Licensed Baccalaureate Social Worker.

(42) LCSW--Licensed Clinical Social Worker.

(43) License--A regular or temporary board-issued license, including LBSW, LMSW, and LCSW. Some licenses may carry an additional specialty recognition, such as LMSW-AP, LBSW-IPR, or LMSW-IPR.

(44) Licensee--A person licensed by the board to practice social work.

(45) LMSW--Licensed Master Social Worker.

(46) LMSW-AP--Licensed Master Social Worker with the Advanced Practitioner specialty recognition for non-clinical practice.

(47) Non-clinical social work--Professional social work which incorporates non-clinical work with individuals, families, groups, communities, and social systems which may involve locating resources, negotiating and advocating on behalf of clients or client groups, administering programs and agencies, community organizing, teaching, researching, providing employment or professional development non-clinical supervision, developing and analyzing policy, fund-raising, and other non-clinical activities.

(48) Peer assistance program--A program designed to help an impaired professional return to fitness for practice.

(49) Person--An individual, corporation, partnership, or other legal entity.

(50) Psychotherapy--Treatment in which a qualified social worker uses a specialized, formal interaction with an individual, couple, family, or group by establishing and maintaining a therapeutic relationship to understand and intervene in intrapersonal, interpersonal and psychosocial dynamics; and to diagnose and treat mental, emotional, and behavioral disorders and addictions.

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

(52) Rules--Provisions of this chapter specifying how the board implements the Act, how the board operates, and how individuals are affected by the Act.

(53) Social work case management--Using a bio-psychosocial perspective to assess, evaluate, implement, monitor and advocate for services on behalf of and in collaboration with the identified client or client group.

(54) Social worker--A person licensed under the Act.

(55) Social work practice--Services which an employee, independent practitioner, consultant, or volunteer provides for compensation or pro bono to effect changes in human behavior, a person's emotional responses, interpersonal relationships, and the social conditions of individuals, families, groups, organizations, and communities. Social work practice is guided by specialized knowledge, acquired through formal social work education. Social workers specialize in understanding how humans develop and behave within social environments, and in using methods to enhance the functioning of individuals, families, groups, communities, and organizations. Social work practice involves the disciplined application of social work values, principles, and methods including, but not limited to, psychotherapy; marriage, family, and couples intervention; group therapy and group work; mediation; case management; supervision and administration of social work services and programs; counseling; assessment, diagnosis, treatment; policy analysis and development; research; advocacy for vulnerable groups; social work education; and evaluation.

(56) Supervisor, board-approved--A person meeting the requirements set out in §781.402 of this title (relating to Clinical Supervision for LCSW and Non-Clinical Supervision for LMSW-AP and Independent Practice Recognition), to

supervise a licensee towards the LCSW, LMSW-AP or Independent Practice Recognition, or as a result of a board order.

(57) Supervision--Supervision includes:

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

(B) clinical supervision of a Licensed Master Social Worker in a setting in which the LMSW is providing clinical services; the supervision may be provided by a Licensed Professional Counselor, Licensed Psychologist, Licensed Marriage and Family Therapist, Licensed Clinical Social Worker or Psychiatrist. This supervision is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure;

(C) clinical supervision of a Licensed Master Social Worker, who is providing clinical services and is under a board-approved supervision plan to fulfill supervision requirements for achieving the LCSW; a Licensed Clinical Social Worker who is a board-approved supervisor delivers this supervision;

(D) non-clinical supervision of a Licensed Master Social Worker or Licensed Baccalaureate Social Worker who is providing non-clinical social work service toward qualifications for independent non-clinical practice recognition; this supervision is delivered by a board-approved supervisor;

(E) non-clinical supervision of a Licensed Master Social Worker who is providing non-clinical social work service toward qualifications for the LMSW-AP; this supervision is delivered by a board-approved supervisor;

(F) supervision of a probationary Licensed Master Social Worker or Licensed Baccalaureate Social Worker providing non-clinical services by a board-approved supervisor toward licensure under the AMEC program; or

(G) board-ordered supervision of a licensee by a board-approved supervisor pursuant to a disciplinary order or as a condition of new or continued licensure.

(58) Supervision hour--A supervision hour is a minimum of 60 minutes in length.

(59) Termination--Ending social work services with a client.

(60) Texas Open Meetings Act--Government Code, Chapter 551.

(61) Texas Public Information Act--Government Code, Chapter 552.

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

SUBCHAPTER B. CODE OF CONDUCT AND PROFESSIONAL STANDARDS OF PRACTICE.

§781.201. Code of Conduct.

(a) A social worker must observe and comply with the code of conduct and standards of practice set forth in this subchapter. Any violation of the code of conduct or standards of practice will constitute unethical conduct or conduct that discredits or tends to discredit the profession of social work and is grounds for disciplinary action.

(1) A social worker shall not refuse to perform any act or service for which the person is licensed solely on the basis of a client's age; gender; race; color; religion; national origin; disability; sexual orientation; gender identity and expression; or political affiliation.

(2) A social worker shall truthfully report her or his services, professional credentials and qualifications to clients or potential clients. A social worker shall not advertise or claim a degree from a college or university which is

not accredited by the Council on Higher Education Accreditation.

(3) A social worker shall only offer those services that are within his or her professional competency, and shall provide services within accepted professional standards of practice, appropriate to the client's needs.

(4) A social worker shall strive to maintain and improve her or his professional knowledge, skills and abilities.

(5) A social worker shall base all services on an assessment, evaluation or diagnosis of the client.

(6) A social worker shall provide the client with a clear description of services, schedules, fees and billing at the initiation of services.

(7) A social worker shall safeguard the client's rights to confidentiality within the limits of the law.

(8) A social worker shall be responsible for setting and maintaining professional boundaries.

(9) A social worker shall not have sexual contact with a client or a person who has been a client.

(10) A social worker shall refrain from providing services while impaired by physical health, mental health, medical condition, or by medication, drugs or alcohol.

(11) A social worker shall not exploit his or her position of trust with a client or former client.

(12) A social worker shall evaluate a client's progress on a continuing basis to guide service delivery and will make use of supervision and consultation as indicated by the client's needs.

(13) A social worker shall refer a client for those services that the social worker is unable to meet, and shall terminate services to a client when continuing to provide services is no longer in the client's best interest.

(b) The grounds for disciplinary action of a social worker shall be based on the code of conduct or standards of practice in effect at the time of the violation.

§781.202. The Practice of Social Work.

(a) Practice of Baccalaureate Social Work--Applying social work theory, knowledge, methods, ethics and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, organizations and communities. Baccalaureate Social Work is generalist practice and may include interviewing, assessment, planning, intervention, evaluation, case management, mediation, counseling, supportive counseling, direct practice, information and referral, problem solving, supervision, consultation, education, advocacy, community organization, and policy and program development, implementation, and administration.

(b) Practice of Independent Non-Clinical Baccalaureate Social Work--An LBSW recognized for independent practice, known as LBSW-IPR, may provide any non-clinical baccalaureate social work services in either an employment or an independent practice setting. An LBSW-IPR may work under contract, bill directly for services, and bill third parties for reimbursements for services. An LBSW-IPR must restrict his or her independent practice to providing non-clinical social work services.

(c) Practice of Master's Social Work--Applying social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, organizations and communities. An LMSW may practice clinical social work in an agency employment setting under clinical supervision, under a board-approved supervision plan, or under contract with an agency when under a board-approved

clinical supervision plan. Master's Social Work practice may include applying specialized knowledge and advanced practice skills in assessment, treatment, planning, implementation and evaluation, case management, mediation, counseling, supportive counseling, direct practice, information and referral, supervision, consultation, education, research, advocacy, community organization and developing, implementing and administering policies, programs and activities. An LMSW may engage in Baccalaureate Social Work practice.

(d) Advanced Non-Clinical Practice of LMSWs--An LMSW recognized as an Advanced Practitioner (LMSW-AP) may provide any non-clinical social work services in either an employment or an independent practice setting. An LMSW-AP may work under contract, bill directly for services, and bill third parties for reimbursements for services. An LMSW-AP must restrict his or her practice to providing non-clinical social work services.

(e) Independent Practice for LMSWs--An LMSW recognized for independent practice may provide any non-clinical social work services in either an employment or an independent practice setting. This licensee is designated as LMSW-IPR. An LMSW-IPR may work under contract, bill directly for services, and bill third parties for reimbursements for services. An LMSW-IPR must restrict his or her independent practice to providing non-clinical social work services.

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

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

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

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

§781.203. General Standards of Practice. This section establishes standards of professional conduct required of a social worker. The licensee, following applicable statutes:

(1) shall not knowingly offer or provide professional services to an individual concurrently receiving professional services from another mental health services provider except with that provider's knowledge. If a licensee learns of such concurrent professional services, the licensee shall take immediate and reasonable action to inform the other mental health services provider;

(2) shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the relationship. If continued professional services are indicated, the licensee shall take reasonable steps to facilitate transferring the client to an appropriate source of service;

(3) shall not evaluate any individual's mental, emotional, or behavioral condition unless the licensee has personally interviewed the individual or the licensee discloses with the evaluation that the licensee has not personally interviewed the individual;

(4) shall not persistently or flagrantly over treat a client;

(5) shall not aid and abet the unlicensed practice of social work by a person required to be licensed under the Act;

(6) shall not participate in any way in falsifying licensure applications or any other documents submitted to the board;

(7) shall ensure that, both before services commence and as services progress, the client knows the licensee's qualifications and any intent to delegate service provision; any restrictions the board has placed on the licensee's license; the limits on confidentiality and privacy; and applicable fees and payment arrangements;

(8) if the client must barter for services, it is the professional's responsibility to ensure that the client is in no way harmed. The value of the barter shall be agreed upon in advance and shall not exceed customary charges for the service or goods; and

(9) shall ensure that the client or a legally authorized person representing the client has signed a consent for services, when appropriate. Prior to commencement of social work services with a minor client who is named in a Suit Affecting Parent Child Relationship (SAPCR), the licensee shall ensure that all legally authorized persons representing the client have signed a consent for services, if applicable. A licensee shall maintain these documents in the client's record.

§781.204. Relationships with Clients.

(a) A social worker shall inform in writing a prospective client about the nature of the professional relationship, which can include but is not limited to office procedures, after-hours coverage, services provided, fees, and arrangements for payment.

(b) The social worker shall not give or receive a commission, rebate, or any other form of remuneration for referring clients. A licensee

shall not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting clients or patronage for or from any health care professional. In accordance with the provisions of the Act, §505.451, a licensee is subject to disciplinary action if the licensee directly or indirectly offers to pay or agrees to accept remuneration to or from any person for securing or soliciting a client or patronage. Payment of credentialing or other fees to insurance companies or other third party payers to be part of an approved provider list shall not be considered as a violation of this chapter.

(c) A social worker shall not enter into a business relationship with a client. This rule does not prohibit a professional social work relationship with a client, as described in this subchapter.

(d) A social worker shall not engage in activities that seek to primarily meet the social worker's personal needs or personal gain instead of the needs of the client.

(e) A social worker shall be responsible for setting and maintaining professional boundaries.

(f) A social worker shall keep accurate records of services to include, but not be limited to, dates of services, types of services, progress or case notes and billing information for a minimum of five years for an adult client and five years beyond the age of 18 years of age for a minor, or in compliance with applicable laws or professional standards. If the foregoing provision conflicts with the standards, requirements, or procedures for records generated in the course and scope of rendering services as a social worker, either directly or indirectly, for an educational institution, or a federal, state, or local governmental entity or political subdivision, the foregoing provision does not apply.

(g) A social worker shall bill clients or third parties for only those services actually rendered or as agreed to by mutual written understanding.

(h) A licensee shall not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the effectiveness of the licensee's services; the licensee's qualifications, capabilities, background, training, experience, education, professional affiliations, fees, products, or publications; the type, effectiveness, qualifications, and products or services offered by an organization or agency; or the practice or field of social work.

(i) If the licensee learns that false, misleading, deceptive, fraudulent or exaggerated statements about the services, qualifications, or products have been made, the licensee shall take all available steps to correct the inappropriate claims, prevent their reoccurrence, and report the incident to the board.

(j) A licensee shall provide social work intervention only in the context of a professional relationship.

(k) Electronic practice may be used judiciously as part of the social work process and the supervision process. Social workers engaging in electronic practice must be licensed in Texas and adhere to provisions of this chapter.

(l) The licensee shall not provide social work services or intervention to previous or current family members; personal friends; educational or business associates; or individuals whose welfare might be jeopardized by a dual or multiple relationship.

(m) The licensee shall not accept from or give to a client any gift with a value in excess of $25. If the licensee's employer prohibits giving or receiving gifts, the licensee shall comply with the employer's policy.

(n) The licensee may not borrow or lend money or items of value to clients or relatives of clients.

(o) The licensee shall take reasonable precautions to protect individuals from physical or emotional harm resulting from interaction within individual and group settings.

(p) A licensee shall not promote the licensee's personal or business activities that are unrelated to the current professional relationship.

(q) A licensee shall set and maintain professional boundaries, avoiding dual or multiple relationships with clients. If a dual or multiple relationship develops, the social worker is responsible for ensuring the client is safe.

§781.205. Sexual Misconduct.

(a) Definitions.

(1) Sexual contact--Any touching or behavior that can be construed as sexual in nature or as defined by the Texas Penal Code, §21.01, relating to assault.

(2) Therapeutic deception--A licensee's act or statement representing that sexual contact or sexual exploitation between the licensee and a client or client group is a valid part of the treatment process.

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

(b) A licensee shall not engage in sexual contact or sexual exploitation with a client or former client; a supervisee of the licensee; or a student at an educational institution at which the licensee provides professional or educational services.

(c) A licensee shall not practice therapeutic deception of a client or former client.

(d) It is not a defense to a disciplinary action under subsections (a) - (c) of this section if the person was no longer emotionally dependent on the licensee when the sexual exploitation began, the sexual contact occurred, or the therapeutic deception occurred. It is also not a defense that the licensee terminated services with the person before the date the sexual exploitation began, the sexual contact occurred or the therapeutic deception occurred.

(e) It is not a defense to a disciplinary action under subsections (a) - (c) of this section if the sexual contact, sexual exploitation, or therapeutic deception with the person occurred with the client's consent; outside appointments with the client; or off the premises the licensee used for appointments with the client.

(f) Examples of sexual contact are those activities and behaviors described in the Texas Penal Code, §21.01, relating to assault.

(g) A licensee shall report sexual misconduct in accordance with Texas Civil Practice and Remedies Code, Chapter 81, relating to sexual exploitation by a mental health services provider. If a licensee has reasonable cause to suspect that a client has been the victim of sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider, or if a client alleges sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider, the licensee shall report the alleged conduct not later than the 30th day after the date the licensee became aware of the conduct or the allegations to:

(1) the prosecuting attorney in the county in which the alleged sexual exploitation, sexual contact or therapeutic deception occurred; and

(2) the board if the conduct involves a licensee and any other state licensing agency which licenses the mental health services provider.

(3) Before making a report under this subsection, the licensee shall inform the alleged victim of the licensee's duty to report and shall determine if the alleged victim wants to remain anonymous.

(4) A report under this subsection shall contain information necessary to identify the licensee; identify the alleged victim, unless the alleged victim has requested anonymity; express suspicion that sexual exploitation, sexual contact, or therapeutic deception occurred; and provide the alleged perpetrator's name.

(h) The following may constitute sexual exploitation if done for sexual arousal, sexual gratification, or sexual abuse of either the social worker or a person who is receiving or has received the licensee's professional services as a social worker:

(1) sexual harassment, sexual solicitation, physical advances, verbal or nonverbal conduct that is sexual in nature;

(2) any behavior, gestures, comments, or expressions which may reasonably be interpreted as inappropriately seductive or sexual, including making sexual comments about a person's body or making sexually demeaning comments about an individual's sexual orientation, or making comments about potential sexual performance except when the comment is pertinent to issues of sexual function or dysfunction in counseling;

(3) initiating conversation about the licensee's sexual problems, preferences, or fantasies; or requesting details of sexual history or sexual likes and dislikes when those details are not necessary for counseling;

(4) kissing or fondling, or making any other deliberate or repeated comments, gestures, or physical acts of a sexual nature, even if they are not sexually intimate;

(5) making a request to date;

(6) exposing genitals, anus or breasts; or

(7) encouraging another person to masturbate in the licensee's presence; or the licensee masturbating in front of another person.

§781.206. Professional Representation.

(a) A social worker shall not misrepresent any professional qualifications or associations.

(b) A social worker shall not misrepresent the attributes of any agency or organization, or make unreasonable, misleading, deceptive, fraudulent, exaggerated, or unsubstantiated claims about the effectiveness of any services.

(c) A social worker shall not encourage, or within the social worker's power, allow a client to hold exaggerated ideas about the effectiveness of the social worker's services.

§781.207. Testing.

(a) A social worker shall inform clients about the purposes and explicit uses of any testing done as part of a professional relationship.

(b) A social worker shall not appropriate, reproduce, or modify published tests or parts thereof without the publisher's permission.

(c) A social worker shall not administer any test without the appropriate training and experience to administer the test.

(d) A social worker must observe the necessary precautions to maintain the security of any test administered by the social worker or under the social worker's supervision.

§781.208. Drug and Alcohol Use. A licensee shall not use alcohol or drugs in ways that compromise the licensee's ability to practice social work; use illegal drugs of any kind; or promote, encourage, or concur in the illegal use, distribution, sale, or possession of alcohol or drugs.

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

(1) keep accurate and legible records of the dates of services, types of services, progress

or case notes, intake assessment, treatment plan, and billing information;

(2) retain and dispose of client records in ways that maintain confidentiality;

(3) in independent practice, establish a plan for the custody and control of the licensee's client records should the licensee die, become incapacitated, or cease offering professional services;

(4) keep client records for five years for adult clients and five years beyond the age of 18 for minor clients unless the record keeping provision of §781.204(f) of this title (relating to Relationships with Clients) conflicts with the standards, requirements, or procedures for records generated in the course and scope of rendering services as a social worker, either directly or indirectly, for an educational institution, or a federal, state, or local governmental entity or political subdivision, the foregoing provision in §781.204(f) of this title does not apply;

(5) provide a written explanation of the types of treatment and charges on a bill or statement to the client (this applies even if the charges are to be paid by a third party); and

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

§781.210. Billing and Financial Relationships.

(a) A licensee shall not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting clients or patronage for or from any health care professional. In accordance with the provisions of the Act, §505.451, a licensee is subject to disciplinary action if the licensee directly or indirectly offers to pay or agrees to accept remuneration to or from any person for securing or soliciting a client or patronage. Payment of credentialing or other fees to insurance companies or other third party payers to be part of an approved provider list shall not be considered as a violation of this chapter.

(b) A licensee employed or under contract with a chemical dependency facility or a mental health facility, shall comply with the requirements in the Texas Health and Safety Code, §164.006, relating to soliciting and contracting with certain referral sources. Compliance with the Treatment Facilities Marketing Practices Act, Texas Health and Safety Code, Chapter 164, shall not be considered as a violation of state law relating to illegal remuneration.

(c) A licensee shall not knowingly or flagrantly overcharge a client, and shall bill clients and/or third parties for only those services that the licensee actually renders.

(d) Billing documents shall accurately reflect any collateral service the licensee uses to help serve the client.

(e) A licensee may not submit to a client and/or a third party payer a bill for services that the licensee knows were not provided, with the exception of a missed appointment, or knows were improper, unreasonable or unnecessary.

§781.211. Client Confidentiality.

(a) Communication between a licensee and client, as well as the client's records, however created or stored, are confidential under the provisions of the Texas Health and Safety Code, Chapter 181, Texas Health and Safety Code, Chapter 611, and other state or federal statutes or rules, including rules of evidence, where such statutes or rules apply to a licensee's practice.

(b) A licensee shall not disclose any communication, record, or client identity

except as provided in the Texas Health and Safety Code, the Health Insurance Portability and Accountability Act (HIPAA), and/or other applicable state or federal statutes or rules.

(c) A licensee shall comply with Texas Health and Safety Code, Chapter 611, concerning access to mental health records.

(d) To release information for or about clients, a licensee shall have written permission signed by the client or the client guardian. That permission, which must be dated, shall include the client's name and identifying information; the purpose for releasing the information; the individual or entity to which the information is released; the length of time the release is authorized; the signature of the client or guardian representative; and date of signature.

(e) The social worker shall maintain the written release of information in the permanent client record and shall review and update it at least every twelve months.

(f) A licensee shall report information if required by any of the following statutes:

(1) Texas Family Code, Chapter 261, concerning abuse or neglect of minors;

(2) Texas Human Resources Code, Chapter 48, concerning abuse, neglect, or exploitation of elderly or disabled persons;

(3) Texas Health and Safety Code, §161.131 et seq., concerning abuse, neglect, and illegal, unprofessional, or unethical conduct in an in-patient mental health facility, a chemical dependency treatment facility or a hospital providing comprehensive medical rehabilitation services; and

(4) Texas Civil Practice and Remedies Code, §81.006, concerning sexual exploitation by a mental health services provider.

(g) A licensee may take reasonable action to inform only medical or law enforcement personnel if the professional determines that a client or others are at imminent risk of physical injury, or a client is in immediate risk of mental or emotional injury, in accordance with the Texas Health and Safety Code, Chapter 611, concerning mental health records.

§781.212. Licensees and the Board.

(a) Any person licensed as a social worker is bound by the provisions of the Act and this chapter.

(b) A social worker shall report alleged misrepresentations or violations of this chapter to the board.

(c) The licensee shall report any and all name changes, address changes, or employment setting changes to the board within 30 days.

(d) The board is not responsible for any lost or misdirected mail if sent to the address last reported by the licensee.

(e) The board may ask any applicant for licensure as a social worker, whose file contains negative references of good moral character, to come before the board for an interview before the licensure process may proceed.

(f) The board may consider a social worker's failure to respond to the board's request for information or other correspondence as unprofessional conduct and as indicative of lack of fitness for practice. It is grounds for disciplinary proceedings in accordance with this chapter.

§781.213. Corporations and Business Names.

(a) An independent clinical practice or an independent non-clinical practice by a social worker may be incorporated in accordance with the Professional Corporation Act, or other applicable law.

(b) When a licensee uses an assumed name in any social work practice, the social worker's name must be listed in conjunction with the assumed name. An assumed name or credential that the social worker uses shall not be false, deceptive, or misleading.

§781.214. Consumer Information.

(a) A licensee shall inform each client of the board's name, address, and telephone number for reporting violations of the Act or this chapter on one of the following: each registration form; each application; each written contract for services; a sign prominently displayed in each place of business; or a bill for services.

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

§781.215. Display of License Certificate.

(a) A social worker shall display an original board-issued license certificate in a prominent place at each practice location.

(b) A social worker shall not alter a board-issued license certificate.

(c) A social worker shall not display a board-issued license certificate which has been reproduced or is expired, suspended, or revoked.

(d) A licensee who elects to copy a board-issued license certificate or certificate card takes full responsibility for the use or misuse of the reproduced license.

§781.216. Advertising and Announcements.

(a) Social workers' advertisements and announcements shall not contain deceptive, inaccurate, incomplete, out-of-date, or out-of-context information about services or competence. Advertising includes, but is not limited to, any announcement of services, letterhead, business cards, commercial products, website entries, email, cell phone communications, social media communications, and billing statements.

(b) The board imposes no restrictions on the advertising medium a social worker uses, including personal appearances, use of personal voice, size or duration of the advertisement or use of a trade name.

(c) All advertisements or announcements of a licensee's professional services, including website pages, social media communications, or telephone directory listings, shall clearly state the social worker's licensure designation and any specialty recognition, if any.

(d) A social worker shall not announce or advertise any information or reference to the social worker's certification in a field outside of social work that is deliberately intended to mislead the public.

(e) A licensee who retains or hires others to advertise or promote the licensee's practice remains responsible for the statements and representations made.

§781.217. Research and Publications.

(a) In research with a human subject, a social worker is responsible for the subject's welfare throughout a project, shall obtain informed consent and take reasonable precautions so that the subject shall suffer no injurious emotional, physical or social effect.

(b) A social worker shall disguise data obtained from a professional relationship for the purposes of education or research to ensure full protection of the identity of the subject client.

(c) When conducting and reporting research, a social worker must recognize previous work on the topic, as well as observe all copyright laws.

(d) A social worker must give due credit through joint authorship, acknowledgment, footnote statements, Internet sources, or other appropriate means to those who have contributed significantly to the social worker's research or publication.

§781.218. Providing Social Studies. Licensees shall comply with the Texas Family Code, Chapter 107, and other applicable laws when providing social studies.

§781.219. Licensed Sex Offender Treatment. A social worker who is licensed as a sex offender treatment provider by the Council on Sex

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

§781.220. Parent Coordination.

(a) In accordance with the Family Code, §153.601(3), "parenting coordinator" means an impartial third party:

(1) who, regardless of the title by which the person is designated by the court, performs any function described in the Family Code, §153.606, in a suit; and

(2) who:

(A) is appointed under Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion, or on a motion or agreement of the parties, to assist parties in resolving parenting issues through confidential procedures; and

(B) is not appointed under another statute or a rule of civil procedure.

(b) A licensee who serves as a parenting coordinator is not acting under the authority of a license issued by the board, and is not engaged in the practice of social work. The services provided by the licensee who serves as a parenting coordinator are not within the jurisdiction of the board, but rather the jurisdiction of the appointing court.

(c) A licensee who serves as a parenting coordinator has a duty to provide the information in subsection (b) of this section to the parties to the suit.

(d) Records of a licensee serving as a parenting coordinator are confidential under the Civil Practices and Remedies Code, §154.073. Licensees serving as a confidential parenting coordinator shall comply with the Civil Practices and Remedies Code, Chapter 154, relating to the release of information.

(e) A licensee shall not provide social work services to any person while simultaneously providing parenting coordination services. This section shall not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.

§781.221. Parenting Facilitation.

(a) In accordance with House Bill 1012, 81st Legislature, Regular Session, 2009, and Family Code, Chapter 153, this section establishes the practice standards for licensees who desire to serve as parenting facilitators.

(b) In accordance with the Family Code, §153.601(3-a), a "parenting facilitator" means an impartial third party:

(1) who, regardless of the title by which the person is designated by the court, performs any function described by the Family Code, §153.6061, in a suit; and

(2) who:

(A) is appointed under Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion, or on a motion or agreement of the parties, to assist parties in resolving parenting issues through procedures that are not confidential; and

(B) is not appointed under another statute or a rule of civil procedure.

(c) Notwithstanding any other provision of this chapter, licensees who desire to serve as parenting facilitators shall comply with all

applicable requirements of the Family Code, Chapter 153, and this section. Licensees shall also comply with all requirements of this chapter unless a provision is clearly inconsistent with the Family Code, Chapter 153, or this section.

(d) In accordance with the Family Code, §153.6102(e), a licensee serving as a parenting facilitator shall not provide other social work services to any person while simultaneously providing parenting facilitation services. This section shall not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.

(e) A licensee serving as a parenting facilitator utilizes child-focused alternative dispute resolution processes, assists parents in implementing their parenting plan by facilitating the resolution of disputes in a timely manner, educates parents about children's needs, and engages in other activities as referenced in the Family Code, Chapter 153.

(f) A licensee serving as a parenting facilitator shall assist the parties involved in reducing harmful conflict and in promoting the best interests of the children.

(g) A licensee serving as a parenting facilitator functions in four primary areas in providing services.

(1) Conflict management function. The primary role of the parenting facilitator is to assist the parties to work out disagreements regarding the children to minimize conflict. To assist the parents in reducing conflict, the parenting facilitator may monitor the electronic or written exchanges of parent communications and suggest productive forms of communication that limit conflict between the parents.

(2) Assessment function. A parenting facilitator shall review applicable court orders, including protective orders, social studies, and other relevant records to analyze the impasses and issues as brought forth by the parties.

(3) Educational function. A parenting facilitator shall educate the parties about child development, divorce, the impact of parental behavior on children, parenting skills, and communication and conflict resolution skills.

(4) Coordination/case management function. A parenting facilitator shall work with the professionals and systems involved with the family (for example, mental health, health care, social services, education, or legal) as well as with extended family, stepparents, and significant others as necessary.

(h) A licensee serving as a parenting facilitator shall be alert to the reasonable suspicion of acts of domestic violence directed at a parent, a current partner, or children. The parenting facilitator shall adhere to protection orders, if any, and take reasonable measures to ensure the safety of the participants, the children and the parenting facilitator, while understanding that even with appropriate precautions a guarantee that no harm will occur can be neither stated nor implied.

(i) In order to protect the parties and children in domestic violence cases involving power, control and coercion, a parenting facilitator shall tailor the techniques used so as to avoid offering the opportunity for further coercion.

(j) A licensee serving as a parenting facilitator shall be alert to the reasonable suspicion of substance abuse by parents or children, as well as mental health impairment of a parent or child.

(k) A licensee serving as a parenting facilitator shall not provide legal advice.

(l) A licensee serving as a parenting facilitator shall serve by written agreement of the parties and/or formal order of the court.

(m) A licensee serving as a parenting facilitator shall not initiate providing services

until the licensee has received and reviewed the fully executed and filed court order or the signed agreement of the parties.

(n) A licensee serving as a parenting facilitator shall maintain impartiality in the process of parenting facilitation. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.

(o) A licensee serving as a parenting facilitator:

(1) shall terminate or withdraw services if the licensee determines the licensee cannot act in an impartial or objective manner;

(2) shall not give or accept a gift, favor, loan or other item of value from any party having an interest in the parenting facilitation process;

(3) shall not coerce or improperly influence any party to make a decision;

(4) shall not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting facilitator process; and

(5) shall not accept any engagement, provide any service, or perform any act outside the role of parenting facilitation that would compromise the facilitator's integrity or impartiality in the parenting facilitation process.

(p) A licensee serving as a parenting facilitator may make referrals to other professionals to work with the family, but shall avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, or similar remuneration shall be given or received by a licensee for parenting facilitation or other professional referrals.

(q) A licensee serving as a parenting facilitator should attempt to bring about resolution of issues by agreement of the parties; however, the parenting facilitator is not acting in a formal mediation role. An effort towards resolving an issue, which may include therapeutic, mediation, education, and negotiation skills, does not disqualify a licensee from making recommendations regarding any issue that remains unresolved after efforts of facilitation.

(r) A licensee serving as a parenting facilitator shall communicate with all parties, attorneys, children, and the court in a manner which preserves the integrity of the parenting facilitation process and considers the safety of the parents and children.

(s) A licensee serving as a parenting facilitator:

(1) may meet individually or jointly with the parties, as deemed appropriate by the parenting facilitator, and may interview the children;

(2) may interview any individuals who provide services to the children to assess the children's needs and wishes; and

(3) may communicate with the parties through face-to-face meetings or electronic communication.

(t) A licensee serving as a parenting facilitator shall, prior to the beginning of the parenting facilitation process and in writing, inform the parties of:

(1) the limitations on confidentiality in the parenting facilitation process; and

(2) the basis of fees and costs and the method of payment, including any fees associated with postponement, cancellation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.

(u) Information obtained during the parenting facilitation process shall not be shared outside the parenting facilitation process except for professional purposes, as provided by court order, by written agreement of the parties, or as directed by the board.

(v) In the initial session with each party, a licensee serving as a parenting facilitator shall review the nature of the parenting facilitator's role with the parents to ensure that they understand the parenting facilitation process.

(w) A licensee serving as a parenting facilitator:

(1) shall comply with all mandatory reporting requirements, including but not limited to Family Code, Chapter 261, concerning abuse or neglect of minors;

(2) shall report to law enforcement or other authorities if they have reason to believe that any participant appears to be at serious risk to harm themselves or a third party;

(3) shall maintain records necessary to support charges for services and expenses, and shall make a detailed accounting of those charges to the parties and their counsel, if requested to do so;

(4) shall maintain notes regarding all communications with the parties, the children, and other persons with whom they speak about the case; and

(5) shall maintain records in a manner that is professional, legible, comprehensive, and inclusive of information and documents that relate to the parenting facilitation process and that support any recommendations made by the licensee.

(x) Records of a licensee serving as a parenting facilitator are not mental health records and are not subject to the disclosure requirements of Health and Safety Code, Chapter 611. At a minimum, records shall be maintained for the period of time described in §781.209(4) of this title (relating to Client Records and Record Keeping), or as otherwise directed by the court.

(y) Records of a licensee serving as a parenting facilitator shall be released on the request of either parent, as directed by the court, or as directed by the board.

(z) Charges for parenting facilitation services shall be based upon the actual time expended by the parenting facilitator, or as directed by the written agreement of the parties, and/or formal order of the court.

(aa) All fees and costs shall be appropriately divided between the parties as directed by the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.

(bb) Fees may be disproportionately divided fees if one parent is disproportionately creating a need for services and if such a division is outlined in the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.

(cc) Services and activities for which a licensee serving as a parenting facilitator may charge include time spent interviewing parents, children and collateral sources of information; preparation of agreements, correspondence, and reports; review of records and correspondence; telephone and electronic communication; travel; court preparation; and appearances at hearings, depositions and meetings.

(dd) The minimum training for a licensee serving as a parenting facilitator that is required by the Family Code, §153.6101(b), and is determined by the court is:

(1) eight hours of family violence dynamics training provided by a family violence service provider;

(2) 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court;

(3) 24 classroom hours of training in the fields of family dynamics, child development, family law; and

(4) 16 hours of training in the laws and board rules governing parenting

coordination and facilitation, and the multiple styles and procedures used in different models of service.

(ee) A licensee serving as a parenting facilitator:

(1) shall complete minimum training as required by the Family Code, §153.6101, as determined by the appointing court;

(2) shall have extensive practical experience with high conflict or litigating parents;

(3) shall complete and document upon request advanced training in family dynamics, child maltreatment, co-parenting, and high conflict separation and divorce; and

(4) shall regularly complete continuing education related to co-parenting issues, high-conflict families and the parenting coordination and facilitation process.

(ff) A licensee serving as a parenting facilitator shall decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the licensee's skill or expertise.

(gg) Since parenting facilitation services are addressed under multiple titles in different jurisdictions nationally, acceptability of training to meet the requirements of subsection (bb) of this section is based on functional skills taught during the training rather than the use of specific titles or names.

SUBCHAPTER C. THE BOARD.

§781.301. Board Rules.

(a) This subsection outlines the board's procedures for submitting, considering, and disposing of a petition to the board to adopt or change a rule.

(1) Any person may petition the board to adopt or change a rule. The petition, which must be in writing and shall be filed with the board office, shall state the petitioner's name, address, and phone number, and shall include a brief justification and explanation of the proposed rule; the proposed text of the rule, indicating the words to be added or deleted from the current text; the statutory or other authority under which the rule is to be promulgated; and the public benefit that adopting the proposed rule would create, or the anticipated injury or inequality which would result if the proposed rule is not adopted.

(2) The board office may determine the petition does not contain existing information described in this subsection and shall return the petition to the petitioner.

(3) Except as otherwise provided in this subsection, the executive director shall submit a completed petition to the board for consideration.

(4) At the first full board meeting after receiving the petition, the board shall either deny the petition or institute rulemaking procedures in accordance with the APA, the Government Code, Chapter 2001. If the board denies the petition, the board will explain to the petitioner, in writing, why the board denied. If the board initiates rulemaking procedures, the board may alter the wording of the rule from the petitioner's version.

(b) The board will consider and act on all petitions for rule adoption or changes in accordance with this section. If the board considered and acted on a proposed rule change within the previous six months, the board may decline to consider a subsequent petition for the same rule adoption.

§781.302. Board Meetings.

(a) The board shall hold at least one meeting each year and additional meetings as necessary.

(b) The chairperson may call a meeting after consultation with board members or by a majority of members so voting at a meeting.

(c) Meetings shall be announced and conducted under the provisions of the Texas

Open Meetings Act, Government Code, Chapter 551.

(d) The chairperson may invite comments or statements from non-board members on all agenda items, but may limit the time allotted to each individual. The board may not act on comments or statements related to issues not on the agenda.

(e) Interpreters and other reasonable accommodations necessary to facilitate public participation will be made available as requested. The executive director must receive notice that reasonable accommodations will be needed at least 10 days in advance of the board or committee meeting.

§781.303. Board Training. A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that meets the requirements established in the Act.

§781.304. Transaction of Official Board Business.

(a) The board may transact official business only when in a legally constituted meeting with a quorum present. A quorum of the board necessary to conduct official business is five members.

(b) The board shall not be bound by any board member's or staff member's statement or action except when such statement or action results from the board's specific instructions. Board member or staff member opinions, except when a statement or action is in pursuance of specific instructions of the board, about ethical dilemmas or practice issues should never be substituted for appropriate professional consultation.

(c) Robert's Rules of Order Revised shall be the basis of parliamentary decisions except as otherwise provided in this chapter.

§781.305. Board Agendas.

(a) The executive director is responsible for preparing and submitting an agenda to board members prior to each meeting; the agenda is subject to the chair's approval. The agenda shall include items requested by board members, items required by law, items previously tabled, and other matters of board business.

(b) Any individual, including a board member, may request an agenda item by submitting the written request and supporting documentation at least 30 days before the scheduled meeting. The board or committee chair and legal counsel must approve any item before it is placed on the agenda.

(c) The official board meeting agenda shall be filed with the Texas Secretary of State as required by law.

§781.306. Board Minutes.

(a) The minutes of a board meeting are official only when affixed with the original signature of the chairperson.

(b) Drafts of the meeting minutes shall be forwarded to each board member for review and comments or corrections prior to the board's approval.

(c) The official board meeting minutes shall be posted on the publicly-accessible board website.

§781.307. Elections.

(a) At the first meeting following the last day of January of each year, the board shall elect a vice-chair.

(b) A vacancy which occurs in the office of vice-chair may be filled at any meeting.

§781.308. Officers of the Board.

(a) The chair, who is appointed by the governor, shall preside at all meetings which he or she attends. The chair performs all duties prescribed by law or this chapter and is authorized to make day-to-day decisions regarding board activities to make the board more effective and responsive.

(b) The vice-chair shall perform the duties of the chair in case the chair is absent or disabled. If the office of chair becomes vacant, the vice-chair shall serve until a successor is appointed.

§781.309. Committees of the Board.

(a) The board and/or the board chair may establish board committees, advisory committees and task forces.

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

(c) Only members of the board may be appointed to board committees.

(d) Committee chairs shall make regular reports to the board in interim written reports or at regular meetings.

(e) Committees shall meet when called by the committee chair or when so directed by the board or the board chair.

(f) Each committee shall consist of least one public member and one professional member, unless the board authorizes otherwise. At least one public member of the board shall be appointed to any board committee established to review a complaint filed with the board or review an enforcement action against a license holder related to a complaint filed with the board.

§781.310. Executive Director.

(a) The executive director, who serves at the will of the board, is a department employee who administers board activities, such as keeping board meeting minutes and proceedings and serving as custodian of the board files and records.

(b) The executive director shall exercise general supervision over persons employed in the administration of the Act. The executive director may delegate responsibilities to other staff members when appropriate.

(c) The executive director shall be responsible for the investigation and presentation of complaints.

(d) The executive director manages board correspondence and obtains, prepares, and assembles reports and information as directed by the board, or as authorized by the department or other agency with appropriate statutory authority.

(e) The executive director is responsible for assembling and evaluating materials that applicants submit for licensure and renewal. The executive director's determinations are subject to the approval of the appropriate board committee or the full board.

§781.311. Official Records of the Board.

(a) Public records may be reviewed by inspection or duplication, or both, in accordance with the Texas Public Information Act, Government Code, Chapter 552. Confidential records are not available.

(b) The requester shall pay the customary department charge for duplicating costs before or at the time the duplicated records are transferred to the requester.

(c) The procedural rules contained in the Texas Public Information Act for inspecting and duplicating public records apply to requests the board receives.

§781.312. Impartiality and Non-discrimination.

(a) The board shall make all decisions in the discharge of its statutory authority without regard to any person's age; gender; race; color; religion; national origin; disability; sexual orientation; gender identity and expression; or political affiliation.

(b) Any board member who cannot be impartial in determining an applicant's eligibility for licensure or in a disciplinary action against a licensee shall so declare this

to the board and shall not participate in any board proceedings involving that applicant or licensee.

§781.313. Applicants with Disabilities.

(a) The board shall comply with applicable provisions of the Americans with Disabilities Act.

(b) Applicants with disabilities shall inform the board in advance of any reasonable accommodations needed.

§781.314. The License.

(a) The board shall prepare and provide to each licensee a license certificate, which contains the licensee's name, license granted and license number. The license certificate will include any specialty recognition or supervisory status granted by the board to the licensee. The board shall have a method to indicate the expiration date of a new license and a license which has been renewed.

(b) The license shall display the chairperson's signature and the seal of the State of Texas.

(c) Temporary license certificates shall include an expiration date. A temporary license expires on the expiration date, the date that the first licensing examination is failed, or, if the first licensing examination is passed, the date that the board issues a regular license certificate, whichever is first.

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

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

§781.315. Roster of Licensees. The board, on its website, will make available to the general public a roster of licensees at its discretion.

§781.316. Fees.

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

(1) application fee for all licenses, approved supervisory status, or specialty recognition--$20;

(2) license fee for LBSW, or LMSW--$60;

(3) renewal fee for LBSW, or LMSW--$80 biennially;

(4) license fee for LCSW--$100;

(5) renewal fee for LCSW--$100 biennially;

(6) additional license fee for AP or Independent Practice specialty recognition--$20 biennially;

(7) additional or replacement license fee--$10;

(8) fee for late renewal:

(A) 1 - 90 days--renewal fee plus fee equal to one-fourth of the renewal fee for an unexpired license (LMSW or LBSW fee - $20; LCSW, LBSW-IPR, LMSW-IPR, or LMSW-AP fee - $25); or

(B) 91 days, but less than one year--renewal fee plus fee equal to one-half of the renewal fee for an unexpired license (LMSW or LBSW fee - $40; LCSW, LBSW-IPR, LMSW-IPR, or LMSW-AP fee - $50);

(9) conversion fee covering active to inactive status, or inactive to active status--$30;

(10) inactive status renewal fee--$30 biennially;

(11) returned check fee--$25;

(12) written license verification fee--$10 per verification copy;

(13) specialty license verification fee--$10 per verification copy;

(14) continuing education provider application fee--$50 annually;

(15) delinquent child support administrative fee--$35;

(16) legislatively mandated fees for the Office of Patient Protection;

(17) legislatively mandated fees related to administering www.texas.gov;

(18) board approved supervisor fee--$50 biennially;

(19) AMEC participant administrative fee--Fee equal to the current contract examination fee;

(20) Temporary license fee--$30; and

(21) Criminal history evaluation letter fee--$50.

(b) Fees paid to the board by applicants are not refundable except in accordance with §781.405 of this title (relating to Application for Licensure).

(c) A license which is issued by the board, but for which a check is returned (for example, insufficient funds, account closed, or payment stopped) is invalid. A license will be considered expired and the licensee in violation of board rules until the board receives and processes the renewal fee and returned check fee.

§781.317. Criminal History Evaluation Letter.

(a) In accordance with Texas Occupations Code, §53.102, a person may request the department to issue a criminal history evaluation letter regarding the person's eligibility for a license if the person:

(1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license; and

(2) has reason to believe that the person is ineligible for the license due to a conviction or deferred adjudication for a felony or misdemeanor offense.

(b) A person making a request for issuance of a criminal history evaluation letter shall submit the request on a form prescribed by the department, accompanied by the criminal history evaluation letter fee and the required supporting documentation, as described on the form. The request shall state the basis for the person's potential ineligibility.

(c) The department has the same authority to investigate a request submitted under this subsection and the requestor's eligibility that the department has to investigate a person applying for a license.

(d) If the department determines that a ground for ineligibility does not exist, the department shall notify the requestor in writing of the determination. The notice shall be issued not later than the 90th day after the date the department received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form.

(e) If the department determines that the requestor is ineligible for a license, the department shall issue a letter setting out each basis for potential ineligibility and the department's determination as to eligibility. The letter shall be issued not later than the 90th day after the date the department received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form. In the absence of new evidence known to, but not disclosed by, the requestor or not reasonably available to the department at the time the letter is issued, the department's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.

SUBCHAPTER D.
LICENSES AND LICENSING PROCESS.

§781.401. Qualifications for Licensure.

(a) Licensure. The following education and experience is required for licensure as designated. If an applicant for a license has held a substantially equivalent license in good standing in another jurisdiction for at least five years immediately preceding the date of

application, the applicant will be deemed to have met the experience requirement under this chapter. If the applicant has been licensed or certified in another jurisdiction for fewer than five years preceding the date of application, the applicant must meet current Texas licensing requirements.

(1) Licensed Clinical Social Worker (LCSW).

(A) Has been conferred a master's degree in social work from a CSWE-accredited social work program, or a doctoral degree in social work from an accredited institution of higher learning acceptable to the board, and has documentation in the form of a university transcript of successfully completing a field placement in social work.

(B) Has had 3000 hours of board-approved supervised professional clinical experience over a period of 24 to 48 months, or its equivalent if the experience was completed in another jurisdiction. Board-approved supervised professional experience must comply with §781.404 of this title (relating to Recognition as a Board-approved Supervisor and the Supervision Process) and all other applicable laws and rules.

(C) Has had a minimum of 100 hours of board-approved supervision, over the course of the 3000 hours of experience, with a board-approved supervisor. Supervised experience must have occurred within the five calendar years immediately preceding the date of LCSW application. If the social worker completed supervision in another jurisdiction, the social worker shall have the supervision verified by the regulatory authority in the other jurisdiction. If such verification is impossible, the social worker may request that the board accept alternate verification of supervision.

(D) Has passed the Clinical examination administered nationally by ASWB.

(2) Licensed Master Social Worker (LMSW).

(A) Has been conferred a master's degree in social work from a CSWE-accredited social work program, or a doctoral degree in social work from an accredited university acceptable to the board, and has documentation in the form of a university transcript of successfully completing a field placement in social work.

(B) Has passed the Master's examination administered nationally by ASWB.

(3) Licensed Baccalaureate Social Worker (LBSW).

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

(B) Has passed the Bachelors examination administered nationally by ASWB.

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

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

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

(B) While fully licensed as a social worker, has had 3000 hours of board-approved supervised professional non-clinical social work experience over a period of 24 to 48 months, or its equivalent if the experience was completed in another jurisdiction. Board-approved supervised professional experience must comply with §781.404 of this title and all other applicable laws and rules.

(C) Has had a minimum of 100 hours of board-approved supervision, over the course of the 3000 hours of experience, with a board-approved supervisor. Supervised experience must have occurred within the five calendar years immediately preceding the date of LMSW-AP

application. If supervision was completed in another jurisdiction, the social worker must have the supervision verified by the regulatory authority in the other jurisdiction. If such verification is impossible, the social worker may request that the board accept alternate verification of supervision.

(D) Has passed the Advanced Generalist examination administered nationally by the ASWB.

(2) Independent Non-clinical Practice.

(A) Is currently licensed in the State of Texas as an LBSW or LMSW.

(B) While fully licensed as a social worker has had 3000 hours of board-approved supervised full-time social work experience over a minimum two-year period, but within a maximum five-year period or its equivalent if the experience was completed in another state. Board-approved supervised professional experience must comply with §781.404 of this title and all other applicable laws and rules.

(C) Has had a minimum of 100 hours of board-approved supervision, over the course of the 3000 hours of experience, with a board-approved supervisor. Supervised experience must have occurred within the 5 calendar years immediately preceding the date of application for IPR specialty recognition. If supervision was completed in another jurisdiction, the social worker shall have the supervision verified by the regulatory authority in the other jurisdiction. If such verification is impossible, the social worker may request that the board accept alternate verification.

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

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

(a) A person who has obtained a temporary license may not begin the supervision process toward independent non-clinical practice or independent clinical practice until the regular license is issued.

(b) An LMSW who plans to apply for the LCSW must:

(1) within 30 days of initiating supervision, submit to the board one clinical supervisory plan for each location of practice for approval by the board or executive director/designee;

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

(3) submit a separate supervision verification form for each location of practice to the board for approval within 30 days of the end of each supervisory plan with each supervisor. If the supervisor does not recommend that the supervisee is eligible to examine for LCSW, the supervisor must indicate such on the clinical supervision verification form and provide specific reasons for not recommending the supervisee. The board may consider the supervisor's reservations as it evaluates the supervision verification submitted by the supervisee;

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

(5) submit an application for re-categorizing his/her licensure to Licensed Clinical Social Worker.

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

(1) submit one non-clinical supervisory plan for each location of practice to the board for approval by the board or executive director/designee within 30 days of initiating supervision;

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

(3) submit a separate supervision verification form for each practice location to the board for approval within 30 days of the end of each supervisory plan with each supervisor. If the supervisor does not recommend that the supervisee is eligible to examine for advanced practice specialty recognition, the supervisor must indicate such on the non-clinical supervision verification form and provide specific reasons for not recommending the supervisee. The board may consider the supervisor's reservations as it evaluates the supervision verification that the supervisee submits;

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

(5) upon completing and submitting documentation of the required non-clinical supervision, the LMSW must apply for the advanced practitioner specialty recognition.

(d) An LBSW or an LMSW who plans to apply for the Independent Practice Recognition must:

(1) submit one supervisory plan to the board for each location of practice for approval by the board or executive director/designee within 30 days of initiating supervision;

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

(3) submit a separate supervision verification form for each practice location to the board within 30 days of the end of each supervisory plan with each supervisor. If the supervisor does not recommend that the supervisee is eligible for independent practice recognition, the supervisor must provide specific reasons for not recommending the supervisee. The board may consider the supervisor's reservations as it evaluates the supervision verification that the supervisee submits; and

(4) submit a new supervisory plan within 30 days of changing supervisors or practice location.

(e) A licensee who is required to be supervised as a condition of initial licensure, continued licensure, or disciplinary action must:

(1) submit one supervisory plan for each practice location to the board for approval by the board or executive director/designee within 30 days of initiating supervision;

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

supervisor that the supervisor has reviewed the contract and is qualified to supervise the licensee in the setting;

(3) ensure that the supervisor submits reports to the board on a schedule determined by the board. In each report, the supervisor must address the supervisee's performance, how closely the supervisee adheres to statutes and rules, any special circumstances that led to the imposition of supervision, and recommend whether the supervisee should continue licensure. If the supervisor does not recommend the supervisee for continued licensure, the supervisor must provide specific reasons for not recommending the supervisee. The board may consider the supervisor's reservations as it evaluates the supervision verification the supervisee submits; and

(4) notify the board immediately if there is a disruption in the supervisory relationship or change in practice location and submit a new supervisory plan within 30 days of the break or change in practice location.

(f) An LBSW or an LMSW who has been approved for a probationary license under supervision while participating in the AMEC program must follow the application and supervision requirements in §781.413 of this title (relating to Alternate Method of Examining Competency (AMEC) Program).

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

(a) An LBSW or LMSW who seeks to obtain board approval for the specialty recognition of independent non-clinical practice shall meet requirements and parameters set by the board in §781.401 of this title (relating to Qualifications for Licensure).

(b) An individual supervising an LBSW for independent non-clinical practice recognition shall be an LBSW recognized for independent non-clinical practice; an LMSW recognized for independent non-clinical practice; an LMSW-AP; or an LCSW. The supervisor shall be board-approved.

(c) An individual supervising an LMSW for the independent non-clinical practice recognition shall be board-approved and shall be an LMSW recognized for independent non-clinical practice, an LMSW-AP, or an LCSW.

(d) A person who has obtained only the temporary license may not begin supervision until the board issues a regular license.

(e) The board may use the Internal Revenue Service (IRS) guidelines developed in 1996 to demonstrate whether a professional is an independent contractor or an employee. These guidelines revolve around the control an employer has in an employer-employee relationship, in which the employer has the right to control the "means and details" by which services are performed.

(1) Behavioral control. The employer can control the employee's behavior by giving instructions about how the work gets done rather than simply looking at the end products of work. The more detailed the instructions, the more control the employer exercises. An employer requiring that employees be trained for the job is also an example of behavioral control, though contractors may also go through training.

(2) Financial control. The employer determines the amount and regularity of payments to employees. A contractor is typically paid when he/she completes the work, and the contractor usually sets a timeframe for completing the work. The most important element of financial control is that a contractor has more freedom to make business decisions that affect the profitability of his/her work. A contractor, for instance, may invest in renting an office or buying equipment, while the employee does not. While employees are usually reimbursed for job-related expenses, the contractor may or may not be reimbursed, but lack of reimbursement usually signals that a worker is independent. An

independent contractor often makes his or her services available to other potential clients, while an employee does not.

(3) Relationship of the parties. The intent of the relationship is significant. The relationship is usually outlined in the written contract and gives one party more control than the other. If a company gives a worker employee benefits, the worker is an employee. The ability to terminate the relationship is another evidence of control in the relationship. If the employer-employee relationship appears to be permanent, it denotes an employee, not contractor, relationship. If a worker performs activities that are a key aspect of the company's regular business, that denotes an employee status.

(f) An LBSW or LMSW who plans to apply for the specialty recognition of non-clinical independent practice shall follow procedures set out in §781.402 of this title (relating to Clinical Supervision for LCSW and Non-Clinical Supervision for LMSW-AP and Independent Practice Recognition).

(g) An LBSW or LMSW may practice independently when the LMSW or LBSW holds the independent practice specialty recognition, or when under a supervision plan for independent practice that has been approved by the board.

§781.404. Recognition as a Board-approved Supervisor and the Supervision Process.

(a) Types of supervision include:

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

(2) clinical supervision of a Licensed Master Social Worker in a setting in which the LMSW is providing clinical services; the supervision may be provided by a Licensed Professional Counselor, Licensed Psychologist, Licensed Marriage and Family Therapist, Licensed Clinical Social Worker or Psychiatrist. This supervision is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure;

(3) clinical supervision of a Licensed Master Social Worker, who is providing clinical services and is under a board-approved supervision plan to fulfill supervision requirements for achieving the LCSW; a Licensed Clinical Social Worker who is a board-approved supervisor delivers this supervision;

(4) non-clinical supervision of a Licensed Master Social Worker or Licensed Baccalaureate Social Worker who is providing non-clinical social work service toward qualifications for independent non-clinical practice recognition; this supervision is delivered by a board-approved supervisor;

(5) non-clinical supervision of a Licensed Master Social Worker who is providing non-clinical social work service toward qualifications for the LMSW-AP; this supervision is delivered by a board-approved supervisor;

(6) supervision of a probationary Licensed Master Social Worker or Licensed Baccalaureate Social Worker providing non-clinical services by a board-approved supervisor toward licensure under the AMEC program; or

(7) board-ordered supervision of a licensee by a board-approved supervisor pursuant to a disciplinary order or as a condition of new or continued licensure.

(b) A person who wishes to be a board-approved supervisor must file an application and pay the applicable fee.

(1) A board-approved supervisor must be actively licensed in good standing by the board as an LBSW, an LMSW, an LCSW, or be recognized as an Advanced Practitioner (LMSW-AP), or hold the equivalent social

work license in another jurisdiction. An individual whose licensure status is emeritus may not serve as a board-approved supervisor. The person applying for board-approved status must have practiced at his/her category of licensure for two years. The board-approved supervisor shall supervise only those supervisees who provide services that fall within the supervisor's own competency.

(2) The board-approved supervisor is responsible for the social work services provided within the supervisory plan.

(3) The board-approved supervisor must have completed a supervisor's training program acceptable to the board.

(4) The board-approved supervisor must complete three hours of continuing education every biennium in supervision theory, skills, strategies, and/or evaluation.

(5) The board-approved supervisor must designate at each license renewal that he/she wishes to continue board-approved supervisor status.

(6) The board-approved supervisor must submit required documentation and fees to the board as listed in §781.316 of this title (relating to Fees).

(7) When a licensee is designated a board-approved supervisor, he or she may perform the following supervisory functions.

(A) An LCSW may supervise clinical experience toward the LCSW license, non-clinical experience toward the Advanced Practitioner specialty recognition, non-clinical experience toward the Independent Practice Recognition (non-clinical), a licensee under probationary initial or continued licensure, board-ordered probated suspension, and probationary license holders under the AMEC program.

(B) An LMSW-AP may supervise non-clinical experience toward the Advanced Practitioner specialty recognition; non-clinical experience toward the non-clinical Independent Practice Recognition; a licensee under probationary initial or continued licensure; board-ordered probated suspension for non-clinical practitioners; and probationary license holders under the AMEC program.

(C) An LMSW with the Independent Practice Recognition (non-clinical) who is a board-approved supervisor may supervise an LBSW's or LMSW's non-clinical experience toward the non-clinical Independent Practice Recognition; an LBSW or LMSW under probationary initial or continued licensure; an LBSW or LMSW (non-clinical) under board-ordered probated suspension; and a probationary license holder under the AMEC program; however, an LMSW who does not hold the independent practice recognition may only supervise probationary license holders under the AMEC program in an employment setting.

(D) An LBSW with the non-clinical Independent Practice Recognition who is a board-approved supervisor may supervise: an LBSW's non-clinical experience toward the non-clinical Independent Practice Recognition; an LBSW under probationary initial or continued licensure; an LBSW under board-ordered probated suspension; and a probationary LBSW license holder under the AMEC program; however, an LBSW who does not hold the independent practice recognition may only supervise probationary license holders under the AMEC program in an employment setting.

(8) On receiving the licensee's application to be a board-approved supervisor, as well as fee and verification of qualifications, the board will issue a letter notifying the licensee that the licensee is a board-approved supervisor.

(9) The approved supervisor must renew the approved supervisor status in conjunction with the biennial license renewal. The

approved supervisor may surrender supervisory status by documenting the choice on the appropriate board renewal form and subtracting the supervisory renewal fee from the renewal payment. If a licensee who has surrendered supervisory status desires to regain supervisory status, the licensee must reapply and meet the current requirements for approved supervisor status.

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

(11) A board-approved supervisor who wishes to provide any form of board-approved or board-ordered supervision must comply with the following.

(A) The supervisor is obligated to keep legible, accurate, complete, signed supervision notes and must be able to produce such documentation for the board if requested. The notes shall document the content, duration, and date of each supervision session.

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

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

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

(E) A supervisor shall not be employed by or under the employment supervision of the person who he or she is supervising.

(F) A supervisor shall not be a family member of the person being supervised.

(G) A supervisee must have a clearly defined job description and responsibilities.

(H) A supervisee who provides client services for payment or reimbursement shall submit billing to the client or third-party payers which clearly indicates the services provided and who provided the services, and specifying the supervisee's licensure category and the fact that the licensee is under supervision.

(I) If either the supervisor or supervisee has an expired license or a license that is revoked or suspended during supervision, supervision hours accumulated during that time will be accepted only if the licensee appeals to and receives approval from the board.

(J) A licensee must be a current board-approved supervisor in order to provide professional development supervision toward licensure or specialty recognition, or to provide board-ordered supervision to a licensee. Providing supervision without having met all requirements for current, valid board-approved supervisor status may be grounds for disciplinary action against the supervisor.

(K) The supervisor shall ensure that the supervisee knows and adheres to the Code of Conduct and Professional Standards of Practice of this chapter.

(L) The supervisor and supervisee shall avoid forming any relationship with each other that impairs the objective, professional judgment and prudent, ethical behavior of either.

(M) Should a supervisor become subject to a board disciplinary order, that person is no longer a board-approved supervisor and must so inform all supervisees, helping them to find alternate supervision.

(N) The board may deny, revoke, or suspend board-approved supervisory status following a fair hearing for violation of the Act or rules, according to the department fair hearing rules. Continuing to supervise after the board has denied, revoked, or suspended board-approved supervisor status, or after the supervisor's supervisory status expires, may be grounds for disciplinary action against the supervisor.

(O) If a supervisor's board-approved status is expired, suspended, or revoked, the supervisor shall refund all supervisory fees the supervisee paid after the date the supervisor ceased to be board-approved.

(P) A supervisor is responsible for developing a well-conceptualized supervision plan with the supervisee, and for updating that plan whenever there is a change in agency of employment, job function, goals for supervision, or method by which supervision is provided.

(Q) All board-approved supervisors shall have taken a board-approved supervision training course by January 1, 2014 in order to renew board-approved supervisor status. The board recognizes that many licensees have had little, if any, formal education about supervision theories, strategies, problem-solving, and accountability, particularly LBSWs who may supervise licensees toward the IPR. Though some supervisors have functioned as employment supervisors for some time and have acquired practical knowledge, their practical supervision skills may be focused in one practice area, and may not include current skills in various supervision methods or familiarity with emerging supervisory theories, strategies, and regulations. Therefore, the board values high-quality, contemporary, multi-modality supervision training to ensure that all supervisors have refreshed their supervisory skills and knowledge in order to help supervisees practice safely and effectively.

(12) A board-approved supervisor who wishes to provide supervision towards licensure as an LCSW or towards specialty recognition in Independent Practice (IPR) or Advanced Practitioner (LMSW-AP), which is supervision for professional growth, must comply with the following.

(A) Supervision toward licensure or specialty recognition may occur in one-on-one sessions; in a combination of individual and group sessions; or in board-approved combinations of supervision in the same geographical location, supervision via audio and visual web technology, and other electronic supervision techniques.

(B) Supervision groups shall have no fewer than two members and no more than six.

(C) Supervision shall occur in proportion to the number of actual hours worked, with a base line of one hour of supervision for every 40 hours worked. If the supervisee works full-time, supervision shall occur on average at least twice a month and for no less than four hours per month; if the supervisee works part-time (at least 20 hours per week), supervision shall occur on average at least once a month and no less than two hours per month. Supervisory sessions shall last at least one hour and no more than two hours per session. No more than 10 hours of supervision may be counted in any one month, or 30-day period, as appropriate, towards satisfying minimum requirements for licensure or specialty recognition.

(D) The board considers supervision toward licensure or specialty recognition to be supervision which promotes professional growth. Therefore, all

supervision formats must encourage clear, accurate communication between the supervisor and the supervisee, including case-based communication that meets standards for confidentiality. Though the board favors supervision formats in which the supervisor and supervisee are in the same geographical place for a substantial part of the supervision time, the board also recognizes that some current and future technology, such as using reliable, technologically-secure computer cameras and microphones, can allow personal face-to-face, though remote, interaction, and can support professional growth. Supervision formats must be clearly described in the supervision plan, explaining how the supervision strategies and methods of delivery meet the supervisee's professional growth needs and ensure that confidentiality is protected. The plan must be approved by the board.

(E) Supervision toward licensure or specialty recognition must extend over a full 3000 hours over a period of not less than 24 full months and a period of not more than 48 full months for LCSW or LMSW-AP or not more than 60 full months for Independent Practice Recognition (IPR). Even if the individual completes the minimum of 3000 hours of supervised experience and minimum of 100 hours of supervision prior to 24 months from the start date of supervision, supervision which meets the board's minimum requirements shall extend to a minimum of 24 full months. A month is a 30-day period or the length of the actual calendar month, whichever is longer.

(F) The supervisor and the supervisee bear professional responsibility for the supervisee's professional activities.

(G) If the supervisor determines that the supervisee lacks the professional skills and competence to practice social work under a regular license, the supervisor shall develop and implement a written remediation plan for the supervisee.

(H) Board-approved supervised professional experience towards licensure must comply with §781.401 of this title (relating to Qualifications for Licensure) and §781.402 of this title (relating to Clinical Supervision for LCSW and Non-Clinical Supervision for LMSW-AP and Independent Practice Recognition) of this title and all other applicable laws and rules.

(13) A board-approved supervisor who wishes to provide supervision required as a result of a board order must comply with relevant provisions of §781.413 of this title (relating to Alternate Method of Examining Competency (AMEC) Program), §781.610 of this title (relating to Due Process Following Violation of an Order) and §781.806 of this title (relating to Probation) of this title, all other applicable laws and rules, and/or the following.

(A) A licensee who is required to be supervised as a condition of initial licensure, continued licensure, or disciplinary action must:

(i) submit one supervisory plan for each practice location to the board for approval by the board or executive director/designee within 30 days of initiating supervision;

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

(iii) ensure that the supervisor submits reports to the board on a schedule determined by the board. In each report, the supervisor must address the supervisee's performance, how closely the supervisee adheres to statutes and rules, any special circumstances that led to the imposition of supervision, and recommend whether the supervisee should continue licensure. If the supervisor does not recommend the supervisee for continued licensure, the supervisor must provide specific reasons for not recommending the supervisee. The board may consider the supervisor's reservations as it evaluates the supervision verification the supervisee submits; and

(iv) notify the board immediately if there is a disruption in the supervisory relationship or change in practice location and submit a new supervisory plan within 30 days of the break or change in practice location.

(B) The supervisor who agrees to provide board-ordered supervision of a licensee who is under board disciplinary action must understand the board order and follow the supervision stipulations outlined in the order. The supervisor must address with the licensee those professional behaviors that led to board discipline, and must help to remediate those concerns while assisting the licensee to develop strategies to avoid repeating illegal, substandard, or unethical behaviors.

(C) Board-ordered and mandated supervision timeframes are specified in the board order.

(c) A licensee who submits one of the following: a Clinical Supervision Plan, a Non-Clinical Supervision Plan, or a Board-Ordered Supervision Plan, to the board for approval, shall receive a written response from the board of either approval or deficiency related to the plan. If no written response is received by the licensee within four weeks of submission of the plan, it is the responsibility of the licensee who has submitted the plan to follow-up with the board office related to receipt and/or status of the plan within 60 days of submission. If written approval or deficiency is sent to the last known address of the licensee, a board response related to acceptance of the plan shall be considered to have been sent. Supervision and supervised experience hours are not acceptable to meet minimum requirements towards licensure or specialty recognition or to satisfy the terms of a board order if not accrued under a board-approved plan without explicit authorization from the board.

§781.405. Application for Licensure.

(a) A licensure application must be on the official form designated by and available from the board.

(b) The application process begins when the board office receives the completed application form and fee.

(c) The department will acknowledge in writing receiving the application and fee within 15 working days of receipt. The letter will include the requested licensing or specialty recognition category; any documented deficiencies in qualifications; and any additional documentation, such as transcripts or supervisory references, required for the examination approval.

(d) The board will mail a letter approving the applicant to sit for the examination within 15 working days after the board office receives all required documentation.

(e) If an applicant fails to fully document his or her qualifications and/or fails to pass the examination within 12 months after filing the application, his or her application shall be voided, and the applicant will be required to reapply.

(f) When the applicant passes the examination, the department shall mail an

approval notice stating the initial licensure fee.

(g) Under no circumstances may a license applicant falsify any application materials. If the board determines that false information has been submitted, the applicant shall be determined unfit for licensure.

(h) When the applicant has met all other qualifications for licensure or specialty recognition, and when the board office receives the applicant's license fee payment, the board will grant the license or specialty recognition.

(i) In the event an application is not processed in the time periods stated in this section, the applicant has the right to request, in writing, reimbursement of all fees paid in that particular application process. The applicant shall address the reimbursement request to the executive director, who will respond within 30 days. The director may find that good cause existed for exceeding the time period and may deny the request. In that event, the applicant may appeal in writing to the board chairperson, addressed to the board office. The chairperson shall review the executive director's report of the situation and may approve or deny, in writing, the applicant's request for reimbursement of fees.

§781.406. Required Documentation of Qualifications for Licensure.

(a) Application form. An applicant for licensure must submit a completed official application form with all requested information.

(b) Education verification.

(1) The applicant's education must be documented by official college transcripts from social work educational units accredited by CSWE.

(2) Degrees for licensure as an LBSW or LMSW must be from programs accredited or in candidacy for accreditation by CSWE. (Current written verification of a program's CSWE candidacy status must be on file with the board.) College or university degrees from outside of the United States and its territories must be from programs judged by the CSWE to be equivalent to a CSWE accredited program in the United States.

(c) Experience verification.

(1) An applicant's experience for licensure or for specialty recognition must meet the requirements of §781.401 of this title (relating to Qualifications for Licensure), §781.402 of this title (relating to Clinical Supervision for LCSW and Non-Clinical Supervision for LMSW-AP and Independent Practice Recognition), and §781.404 of this title (relating to Recognition as a Board-approved Supervisor and the Supervision Process). The applicant must document the names and addresses of supervisors; beginning and ending dates of supervision; job description; and average number of hours of social work activity per week. The applicant must further document the appropriate supervision plan and verification form, both approved by the board, for each practice location. If any elements described in the supervision plan change, including but not limited to work hours, full- or part-time work status, location of supervision, or name of supervisor, the applicant must submit the appropriate verification form within 30 days of the change or supervision termination. The applicant must submit a new, complete supervision plan for board approval within 30 days of beginning the new supervision agreement.

(2) The applicant's experience must have been in a position providing social work services, under the supervision of a qualified supervisor, with written evaluations to demonstrate satisfactory performance.

(3) Supervised experience must have occurred within the five calendar years immediately preceding the date of application.

(4) The applicant must maintain and upon request, provide to the board documentation of employment status, pay vouchers, or supervisory evaluations.

(d) References. An applicant must list on the official application the names and addresses of three individuals familiar with the applicant's professional qualifications. The board may contact the references for verification of the applicant's qualifications and fitness.

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

§781.407. Fitness of Applicants for Licensure.

(a) To determine the applicant's fitness, the board shall consider the applicant's skills and abilities to provide adequate social work services to clients; the applicant's ethical behavior in relationships with other professionals and clients; and the applicant's worthiness of public trust and confidence.

(b) The board may consider a person, who has committed any act that would have been a violation of the Act or this chapter had the person been licensed at the time the act was committed, as unworthy of public trust and confidence.

(c) Surrender or revocation of a social work license within the previous five years while under investigation or under a board order for professional misconduct shall be considered evidence that the person is unworthy of public trust and confidence.

(d) In determining fitness, the board may also consider a surrender, revocation, or violation of a board order which occurred more than five years before application.

§781.408. Materials Considered in Determination of Fitness of Applicants. In determining the fitness of applicants, the board shall consider evaluations and assessments of supervisors, employers, instructors, and other individuals who can attest to the applicant's fitness for practice; transcripts or findings from official court, hearing, or investigative proceedings; and other relevant information.

§781.409. Finding of Non-fitness.

(a) The board may deny a license, license renewal, or specialty recognition if it substantiates that the applicant lacks the necessary skills and abilities to provide adequate social work services; has misrepresented any materials in the licensure application or renewal application, or any materials submitted to the board; has violated any provision of the Act in effect when the applicant applied; or has violated the Code of Conduct, Standards of Practice, or any other section of this chapter which would have applied had the applicant been licensed when he/she committed the violation.

(b) The board may require an applicant for licensure or licensure renewal to obtain a criminal background check from a board-designated agency and to provide the board an official copy of that report. The board may consider the report in determining the applicant's eligibility for licensure or renewal. Failure to obtain the background check within 30 days of the board's request is grounds for denying the application.

§781.410. Provisional Licenses. The board may grant a provisional social work license to a person who holds, at the time of application, a social work license or certificate issued by another jurisdiction acceptable to the board, and who applies for the provisional license in writing and submits all required academic and experience documentation required for licensure. The applicant must have passed an equivalent licensing test as accepted by the board. If granted a provisional license, the individual must use the appropriate licensing

title followed by the word "provisional." If the board deems that the applicant meets the requirements for licensure set forth in this Act, the board will issue a regular license. If the board determines that the applicant does not meet this state's licensing requirements, the board will deny the application, and the provisional license will no longer be valid.

§781.411. Temporary License.

(a) Prior to examination, a licensure applicant may obtain a temporary social work license as long as the applicant meets all the requirements, except the licensing examination, for the license category the applicant seeks.

(b) A person holding a temporary license must take the designated examination within six months of issuance of the temporary license.

(c) The temporary license is valid until the licensee attempts the appropriate examination or the end of the six-month issuance of the temporary license.

(d) A person holding a temporary license must display the license at the licensee's place of business and must use the appropriate licensed title or initials followed by the word "Temporary" in all professional use of the licensee's name.

(e) Should the applicant take and fail the examination, the temporary license is no longer valid. The applicant must immediately cease and desist from using the temporary license and title, and return the license certificate and certificate card to the board.

(f) Should the applicant pass the examination, the board will issue the license or specialty recognition in accordance with §781.405(g) of this title (relating to Application for Licensure). A temporary license holder who has passed the licensing examination continues to be temporarily licensed until the board issues a regular license or the temporary license expires.

(g) A person who failed the examination and is without a valid temporary license may retake the examination under §781.412 of this title (relating to Examination Requirement).

(h) A temporary license will not be granted to an applicant who has held a temporary license for the same license category previously within his/her lifetime.

(i) An applicant for LCSW or specialty recognition is not eligible for a temporary or provisional license.

(j) Applicants requesting a temporary license must submit the application form and temporary fee required by the board.

§781.412. Examination Requirement.

(a) An applicant for licensure or specialty recognition must pass an examination designated by the board.

(b) When an applicant passes the examination, the individual has no more than one year from the date of passing the examination to complete the requirements for licensure, completing all documentation and paying all fees or the passing examination score will no longer count towards licensure.

(c) If an applicant fails the examination on the first attempt of his/her lifetime, the individual may retake the examination no more than two additional times. An applicant who has failed the examination on the first, second, and third attempts must request in writing to the board to retake the examination a fourth time. The board may order the applicant to complete one or more social work educational courses as a prerequisite to retaking the examination.

(d) An applicant who fails the examination must wait the required timeframe between examination administrations. The board or executive director may waive the waiting period if the applicant petitions in writing, justifying the waiver in accordance with board policy.

(e) If an applicant fails the examination on the fourth attempt, the person's application will be voided. The applicant will not be permitted to reapply for licensure for one year. Each subsequent attempt must be approved by the appropriate committee of the board.

(f) The board may waive the examination for an applicant with a valid certificate or license from another state if the certificate or license was issued before January 1, 1986, if petitioned in writing.

(g) On the basis of a verified report from ASWB that an applicant has cheated on the examination, the application shall be denied.

§781.413. Alternate Method of Examining Competency (AMEC) Program.

(a) An applicant who has taken an examination within the previous 12 months and who has failed the examination on two or more occasions by no more than five points may submit a written petition to the board for an LBSW or LMSW license. It is also the applicant's responsibility to contact ASWB and secure the test scores to submit to the board. The applicant must apply, pay the administrative fee, and submit the memorandum of understanding and the findings of facts documentation to the board to be considered for AMEC.

(b) The board will consider the public interest in reviewing the petition and will issue its written decision after the next full board meeting at which the petition and the applicant's required materials are reviewed.

(c) The written decision will explain why the board has denied AMEC participation, or outline the terms of participation under which the AMEC license is granted.

(d) The participant must complete the professional portfolio, quarterly reports and other requirements within the board's required timeframe.

(e) The participant must complete the AMEC program in no less than 12 and no more than 24 consecutive calendar months from the date of board's agreed order unless the board gives prior approval.

(f) An AMEC participant remains under the supervision of a board-approved supervisor until the board has reviewed the required documents and issued a final order regarding the board's issuance of a regular license. The board may require continued supervision reports.

(g) The board may grant a regular license to an applicant who successfully completes the AMEC participation terms.

§781.414. Issuance of License Certificates.

(a) The board issues license certificates and license cards indicating the social work title, whether LBSW, LMSW or LCSW, granted to applicants who have met all of the board's qualifications. The board-issued license cards will indicate the license expiration date. The board shall indicate the new expiration date of a renewed license on the board-issued cards. The license certificate will also include any applicable specialty recognition or supervisory status.

(b) The licensee must include the license title or associated initials in all professional uses of the licensee's name as required by the Act, §505.351, as in Licensed Clinical Social Worker - LCSW; Licensed Master Social Worker - LMSW; or Licensed Baccalaureate Social Worker - LBSW. If the licensee holds a specialty recognition, he or she shall use the specialty recognition initials as well: Licensed Master Social Worker with non-clinical Independent Practice Recognition - LMSW-IPR; Licensed Baccalaureate Social Worker with non-clinical Independent Practice Recognition - LBSW-IPR; or Licensed Master Social Worker with Advanced Practitioner Recognition - LMSW-AP.

(c) A licensee shall display an original board-issued license certificate, a current license card, and a copy of the Code of Conduct in a prominent place in all practice locations.

(d) The board will post its client information brochure on the board's website.

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

(f) Upon a client's request, a licensee shall provide information regarding his or her license category and how to contact the board.

§781.415. Application Denial.

(a) The board may deny an application if the applicant does not meet all requirements for licensure or specialty recognition.

(b) A person whose application for licensure or specialty recognition is denied is entitled to a formal hearing as set out in Subchapter G of this chapter (relating to Formal Hearings).

§781.416. Required Reports to the Board.

(a) A licensee shall make written reports to the board office within 30 days of the following:

(1) a change of mailing address, place of employment or business or home phone number;

(2) the licensee's arrest, deferred adjudication, or criminal conviction, other than a Class C misdemeanor traffic offense;

(3) the filing of a criminal case against the licensee;

(4) the settlement of or judgment rendered in a civil lawsuit filed against the licensee and relating to the licensee's professional social work practice; or

(5) complaints, investigations, or actions against the licensee by a governmental agency or by a licensing or certification body.

(b) The board may use information received under subsection (a) of this section to determine whether a licensee remains fit to hold a license.

(c) Failure to make a report as required by subsection (a) of this section is grounds for disciplinary action by the board.

§781.417. Surrender of License.

(a) Surrender by licensee.

(1) A licensee may at anytime voluntarily offer to surrender his or her license for any reason, without compulsion.

(2) The license may be delivered to the board office by hand or mail. The licensee must cease practice as a social worker pending action from the board on the surrender of the licensee's license.

(3) If there is no complaint pending, the board office may accept the surrender and void the license.

(b) Formal disciplinary action.

(1) When a licensee has offered the surrender of his or her license after a complaint has been filed, the board shall consider whether to accept the surrender of the license.

(2) When the board has accepted such a surrender, the surrender is deemed to be the result of a formal disciplinary action and a board order shall be prepared accepting the surrender.

(3) In order to accept a surrender, the board may require the licensee to agree to certain findings of fact and conclusions of law, including admitting to a violation of the Act or this chapter.

(4) When the board does not accept an offer of surrender or when the licensee fails to renew the license, the board is not deprived of jurisdiction against the licensee under the Act or any other statute.

(c) Reinstatement. A license, which has been surrendered by the licensee and accepted by the board, may not be reinstated; however, a

person may apply for a new license in accordance with the Act and this chapter.

§781.418. Issuance of Licenses to Certain Out-of-State Applicants.

(a) Notwithstanding any other licensing requirement of this chapter or the Act:

(1) The board may not require an applicant who is licensed in good standing in another state to retake a licensing examination conducted by the board under the Act if the applicant has passed the same examination in another jurisdiction.

(2) The board may issue a license to an applicant who is currently licensed in another jurisdiction to independently practice social work if the board determines that the applicant demonstrates sufficient experience and competence; has passed the licensing examination appropriate to the category of licensure the applicant seeks; has passed the jurisprudence examination conducted by the board under the Texas Occupations Code, §505.3545; and is in good standing with the regulatory body of the licensing jurisdiction at the time the applicant applied in Texas.

(b) When assessing the applicant's experience and competence, the board may consider any supervision the applicant received in another jurisdiction if the board determines that the supervision would be considered for licensing or certification in the jurisdiction in which the applicant received the supervision.

§781.419. Licensing of Military Service Members, Military Veterans, and Military Spouses

(a) This section sets out licensing procedures for military service members, military veterans, and military spouses required under Occupations Code, Chapter 55 (relating to Licensing of Military Service Members, Military Veterans, and Military Spouses). For purposes of this section:

(1) "Military service member" means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(2) "Military spouse" means a person who is married to a military service member who is currently on active duty.

(3) "Military veteran" means a person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(b) An applicant shall provide documentation of the applicant's status as a military service member, military veteran, or military spouse. Acceptable documentation includes, but is not limited to, copies of official documents such as military service orders, marriage licenses, and military discharge records. The application of a person who fails to provide documentation of his or her status shall not be processed under the requirements of this section.

(c) Upon request, an applicant shall provide acceptable proof of current licensure issued by another jurisdiction. Upon request, the applicant shall provide proof that the licensing requirements of that jurisdiction are substantially equivalent to the licensing requirements of this state.

(d) The board's authority to require an applicant to undergo a criminal history background check, and the timeframes associated with that process, are not affected by the requirements of this section.

(e) For an application for a license submitted by a verified military service member or military veteran, the applicant shall receive credit towards any licensing or apprenticeship requirements, except an examination requirement, for verified military service, training, or education that is relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he

or she has an unacceptable criminal history as described by the Act and this chapter.

(f) An applicant who is a military spouse who holds a current license issued by another jurisdiction that has substantially equivalent licensing requirements shall complete and submit an application form and fee. The board shall issue a license to a qualified applicant who holds such a license as soon as practicable and the renewal of the license shall be in accordance with subsection (i) of this section.

(g) In accordance with Occupations Code, §55.004(c), the executive director may waive any prerequisite to obtaining a license after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

(h) A military spouse who within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months is qualified for licensure based on the previously held license, if there are no unresolved complaints against the applicant and if there is no other bar to licensure, such as criminal background or non-compliance with a board order.

(i) If the board issues an initial license to an applicant who is a military spouse in accordance with subsection (f) of this section, the board shall assess whether the applicant has met all licensing requirements of this state by virtue of the current license issued by another jurisdiction. The board shall provide this assessment in writing to the applicant at the time the license is issued. If the applicant has not met all licensing requirements of this state, the applicant must provide proof of completion at the time of the first application for license renewal. A license shall not be renewed, shall be allowed to expire, and shall become ineffective if the applicant does not provide proof of completion at the time of the first application for licensure renewal.

SUBCHAPTER E. LICENSE RENEWAL AND CONTINUING EDUCATION.

§781.501. General.

(a) A license must be renewed biennially.

(b) A licensee must have fulfilled any continuing education requirements that this chapter prescribes in order to renew a license.

(c) Each person who holds a license is responsible for renewing the license and shall not be excused from paying penalty fees for late renewal. Failure to receive notice from the board does not waive payment of penalty fees.

(d) The board may deny the license renewal of a licensee who is in violation of the Act, or this chapter, at the time of renewal application.

(e) A person whose license has expired shall not use the terms or titles described in the Act, §505.351. The person shall return his or her license to the board.

(f) The deadlines established for renewals, late renewals, and penalty fees are based on the postmarked date or electronic submission date by which the licensee submits documentation.

(g) The board shall deny renewal if required by the Education Code, §57.491 (relating to Defaults on Guaranteed Student Loans).

(h) The board upon receipt of a final court or attorney general's order will suspend a license due to failure to pay child support per the Family Code, Chapter 232, regarding suspension of licenses. The individual must pay the reinstatement fee set out in §781.316 of this title (relating to Fees).

(i) A license must be renewed and in good standing prior to the licensee obtaining a different category of licensure.

§781.502. Renewal Cycles. The license renewal date is the last day of the month of the

licensee's birth month. The first renewal of licensure following issuance of the license will be valid for a period of 13 to 24 months, depending on the licensee's birth month. Subsequent to the first renewal period, licenses must be renewed every two years, and the renewal extends for two years.

§781.503. License Renewal.

(a) At least 45 days prior to the expiration of a license, the board will send the licensee notice of the expiration date, schedule of renewal fees and penalties, and continuing education activities required for renewal. The licensee is responsible for renewing his/her license, regardless of whether or not the licensee receives a notification.

(b) The board will provide eligible licensees with renewal forms, soliciting the licensee's current address and contact numbers; completed continuing education; information regarding civil lawsuits and criminal complaints; any governmental agency or licensing body's action against the licensee; and a statement of continuing compliance with the Act and this chapter.

(c) When the board office receives the completed application, the executive director will respond within 15 working days to notify the applicant about the status of the application. Failure to process a renewal application in the time periods stated shall be governed by §781.405(h) of this title (relating to Application for Licensure).

(d) The board shall renew the license of a social worker who has met all renewal requirements, including fee payments, completed documentation, and evidence of completed continuing education requirements.

(e) If a licensee has made timely and sufficient application for license renewal, the license does not expire until the board has acted on the renewal. If the licensee claims to have made timely, sufficient application and is otherwise eligible for renewal, the license will remain current until the renewal is issued or until the board office determines that the application was not timely or sufficient.

(f) A licensee who has been recommended for disciplinary action must file a timely and complete license renewal application, pay all fees, and verify that required continuing education is complete. If he/she fails to do these things, the licensee must cease all social work practice until all renewal requirements are complete.

(g) The board may deny a license renewal if the licensee is a party to a formal disciplinary action. A formal action commences when the board mails notice described in §781.602(c) of this title (relating to Disciplinary Action and Notices).

(h) A license that is not revoked or suspended as a result of formal proceedings shall be renewed provided that all other requirements are met.

(i) In the case of delay in the license renewal process because of formal disciplinary action, penalty fees shall not apply.

(j) The board may refuse to renew the license of a person who fails to pay an administrative penalty imposed in accordance with the Act unless the enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

§781.504. Late Renewal.

(a) A person who fails to meet all the requirements to renew his or her license by the renewal date ceases to be licensed.

(b) A person who renews a license after the expiration date but on or before 90 days after the expiration date shall pay the renewal fee and appropriate penalty fees.

(c) A person whose license was not renewed on or before 90 days from the expiration date may renew within one year of the expiration date by paying the appropriate renewal and penalty fees.

(d) A person whose license has expired must document that he/she completed all continuing education requirements in order to renew the license. A licensee who has not completed all required continuing education in the renewal period shall cease practice and must complete all continuing education before the board will allow the individual to renew. In that case, the board may impose late renewal fees and additional fees.

(e) On or after one year from the expiration date, a person may no longer renew the license and must reapply by submitting a new application, paying the required fees, and meeting the current requirements for the license including passing the licensure examination.

§781.505. Inactive Status.

(a) A licensee who does not wish to practice social work in the State of Texas and whose license has not expired may request the board to grant inactive status anytime before the license expires. If a licensee requests conversion to inactive status within 45 days of the expiration date for the license, the individual must provide verification of completion of all continuing education requirements for the renewal.

(b) No continuing education is required of a licensee while on inactive status.

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

(d) A licensee on inactive status must renew the inactive license and pay all applicable inactive renewal fees throughout the duration of the inactive status. A licensee on inactive status who fails to remit the biennial inactive status renewal fee or who otherwise fails to renew the inactive license timely ceases to be licensed and must reapply for licensure and meet all current minimum requirements for licensure in place at the time of submission of the new application for licensure.

(e) A license, if appropriately converted and renewed as inactive, may be on inactive status for no more than 48 consecutive months or for no more than 96 months total in a lifetime. There must be a minimum of 48 months of active licensure before subsequent inactive status may be requested and granted.

(f) A licensee on inactive status must notify the board in writing to reactivate the license, provide proof of completion of the Jurisprudence Exam completed within six months of the date of requesting reactivation of the license, and pay the conversion fee for inactive to active status. The reactivated license status shall begin seven days after the board receives the licensee's reactivation fee.

§781.506. Emeritus Status.

(a) A licensee who is at least 60 years of age or disabled, and who is not engaged in professional social work practice, may request emeritus status in writing to the board. An emeritus license must be renewed every two years but requires no renewal fee or continuing education.

(b) The emeritus licensee may only use his or her emeritus title while providing social work services as a volunteer without compensation. The emeritus licensee who volunteers social worker services is under the board's jurisdiction and must comply with the Code of Conduct and Professional Standards of Practice, as well as the Act and the rule requirements in this chapter.

(c) An emeritus licensee whose license is in good standing can be reinstated to an active license within 48 months of conversion to emeritus status. To be eligible for an active license through reinstatement of an emeritus license, the emeritus licensee shall submit an application for licensure at the appropriate category, as well as proof of completion of the Jurisprudence Exam within six months prior to requesting reactivation, and payment of the licensing fee. Verification of education, supervision, and examination score is not required.

(d) An emeritus licensee who reactivates his/her license within 48 months of conversion to emeritus status may not regain board-approved supervisor status upon activation without verification of completion of minimum requirements as a board-approved supervisor in place at the time of reactivation. An emeritus licensee who reactivates his/her license within 48 months may regain other specialty recognition(s) without demonstration of meeting current minimum requirements for that specialty recognition.

(e) An emeritus licensee who does not reactivate his/her license within 48 months of conversion to emeritus status may not convert the license to active status except as follows. An emeritus licensee who did not reactivate his/her license within 48 months of conversion must reapply for active licensure and meet all current minimum requirements for licensure, specialty recognition, and board-approved supervisor status in place at the time of application. If all current minimum requirements for licensure are met, upon issuance of a new license and license number, the emeritus license will be null and void.

(f) A licensee who converts to emeritus status may only reactivate the license to active status once per lifetime.

§781.507. Active Military Duty.

(a) A licensee on active duty with the Armed Forces of the United States who is not practicing in the State of Texas at the time of renewal is exempt from the renewal requirement and may, within one year of his or her return to Texas or release from active duty, whichever occurs first, request reinstatement of his or her license.

(b) The board will issue a license on receipt of the request for reinstatement, documentation of his or her active duty status at the time the license expired, and the fee for the current license. No continuing education will be required prior to reinstatement and no penalty fees will be charged.

§781.508. Hour Requirements for Continuing Education.

(a) A licensee must complete a total of 30 clock-hours biennially of continuing education obtained from board-approved continuing education providers. A licensee must complete a total of 30 clock-hours of continuing education obtained from a board-approved continuing education provider including the first renewal of the licensure following issuance of the license, which is valid for a period of 13 to 24 months, depending on the licensee's birth month.

(b) As part of the required 30 biennial clock-hours, a licensee must complete a minimum of six clock-hours of continuing education in professional ethics and social work values.

(c) A clock-hour is defined as 60 minutes of standard time.

(d) A licensee may earn credit for ethics as a presenter or a participant.

(e) Upon a licensee's petition, the executive director may waive part, but not all, of the continuing education renewal requirements for good and just cause or may permit the licensee additional time to complete all continuing education requirements. If the director decides not to waive requirements, a licensee may appeal to the board, which may elect to waive the late fees accrued. Should the board not uphold the licensee's petition, all late fees accrued will apply.

§781.509. Types of Acceptable Continuing Education. The board accepts continuing education in which the licensee learns by:

(1) participating in institutes, seminars, workshops, conferences, independent study programs, post graduate training programs, college academic or continuing education courses which relate to or enhance the practice of social work and are offered by a board-approved provider;

(2) teaching or presenting the activities described in paragraph (1) of this section;

(3) writing a published work or presenting work applicable to the profession of social work;

(4) serving as a field instructor for social work interns attending a college or university accredited by or in candidacy status with CSWE;

(5) providing supervision to a social worker participating in the program in accordance with §781.413 of this title (relating to the Alternative Method of Examining Competency (AMEC) Program); or

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

§781.510. Activities Unacceptable as Continuing Education. The board will not give credit hours for:

(1) education incidental to the regular professional activities of a social worker such as learning occurring from experience or research;

(2) organizational activity such as serving on committees or councils or as an officer in a professional organization;

(3) meetings and activities such as in-service programs required as a part of one's job, unless the in-service training is acceptable continuing education under §781.509 of this title (relating to Types of Acceptable Continuing Education);

(4) college academic courses which are audited or not taken for credit; or

(5) any experience which does not fit the types of acceptable continuing education in §781.509 of this title.

§781.511. Requirements for Continuing Education Providers

(a) A provider must be approved under this section to offer continuing education programs.

(b) A person seeking approval as a continuing education provider shall apply using board forms and include the continuing education provider application fee. Governmental agencies shall be exempt from paying this fee.

(c) Entities that receive automatic status as approved providers without applying or paying fees include accredited colleges and universities; a national or statewide association, board or organization representing members of the social work profession; nationally accredited health or mental health facilities; or a person or agency approved by any state or national organization in a related field such as medicine, law, psychiatry, psychology, sociology, marriage and family therapy, professional counseling, and similar fields of human service practice. Regarding entities that receive automatic status as approved providers under this section, the board will not provide documentation of board-approved status nor will the board include such entities in its roster of board-approved providers.

(d) The applicant shall certify on the application that all programs that the provider offers for board-approved credit hours will comply with the criteria in this section; and the provider will be responsible for verifying attendance at each program and provide an attendance certificate as set forth in subsection (k) of this section.

(e) A program the provider offers for board-approved credit hours shall advance, extend, and enhance the licensees' professional social work skills and knowledge; be developed and presented by persons who are appropriately knowledgeable in the program's subject matter and training techniques; specify the course objectives, course content, teaching methods, and number of credit hours; specify the number of credit hours in ethics and values separately and as part of the total hours credited.

(f) The provider must document each program's compliance with this section, maintaining that documentation for three years.

(g) Department staff shall review the continuing education provider application and notify the applicant of any deficiencies or grant approval, assigning the continuing education provider approval number which shall be noted on all certificates.

(h) Each continuing education program shall provide participants an evaluation instrument which may be completed on-site or returned via the web or by mail. The provider and the instructor shall review the evaluation outcomes and consider those outcomes in revising subsequent programs, keeping all evaluations for three years and allowing the board to review the evaluations on request.

(i) The provider will supply a list of subcontractors as part of the renewal process or upon request.

(j) To maintain continuing education provider approval, each provider shall annually apply to renew provider status and pay applicable fees.

(k) It is the provider's responsibility to provide each program participant with a legible certificate of attendance after the program ends. The certificate shall include the provider's name, approval number, and expiration date of the provider's approved status; the participant's name; the program title, date, and place; the credit hours earned, including the ethics hours credited; the provider's signature or that of the provider's representative; and the board contact information, which shall at a minimum, include the board's name and web address.

(l) The provider is responsible for assuring that the licensee receives credit only for time actually spent in the program.

(m) If the provider fails to comply with these requirements, the board, after notice to the provider and due process hearing, may revoke the provider's approval status.

(n) The board may evaluate any provider or applicant at any time to ensure compliance with requirements of this section.

(o) Complaints regarding continuing education programs offered by approved providers may be submitted in writing to the executive director.

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

§781.512. Evaluation of Continuing Education Providers.

(a) Department staff shall audit approved continuing education providers regularly, reporting audit results to the board. During the audit, staff shall request the provider's documentation regarding compliance with §781.511 of this title (relating to Requirements for Continuing Education Providers).

(b) Department staff shall notify a continuing education provider of the results of an audit. A continuing education provider who does not comply with these regulations shall implement a correction plan to address deficiencies, and will submit documentation of these corrective measures to the board within 30 days of the board's notice that corrective actions are necessary.

(c) The board shall review and may rescind the approval status of continuing education providers.

(d) If the board receives written complaints about continuing education offered by approved providers, the department may audit the provider and refer the matter to the board for appropriate action.

(e) A provider whose approval status has been rescinded may reapply for approval on or after the 91st day following the board action. The provider must document that corrective action has been taken and that the provider's programs will be presented in compliance

with §781.511 of this title. The board shall review the reapplication.

(f) A licensee may not count hours to renew the license if those continuing education hours were received from a provider has failed to meet renewal requirements, or whose approval has been denied or rescinded by the board but is accepted by another approval entity.

(g) Fees paid by a provider whose approval has been rescinded or denied are non-refundable.

§781.513. Acceptance of Continuing Education Approved by Another Licensing Board.

(a) A licensee may request in writing that the board approve continuing education hours provided by a non-approved provider. The licensee shall submit documentation as specified in §781.511(e) of this title (relating to Requirements for Continuing Education Providers) for the board to review and a fee equal to the continuing education provider application fee.

(b) The executive director will review the documentation and notify the licensee in writing whether the program(s) are acceptable as credit hours. This decision may be appealed to the board.

§781.514. Credit Hours Granted. The board will grant the following credit hours toward the continuing education requirements for license renewal.

(1) One credit hour will be given for each hour of participation in a continuing education program by an approved provider.

(2) Credit may be earned, post-licensure, through successfully completing postgraduate training programs (e.g., intern, residency, or fellowship programs) or successfully completing social work courses in a graduate school of social work at a rate of five credit hours per each semester hour or its equivalent not to exceed 10 hours per renewal period. A licensee may complete the ethics requirement in §781.508(a) of this title (relating to Hour Requirements for Continuing Education) only through a course specifically designated as an ethics course.

(3) Credit may be earned for teaching social work courses in an accredited college or university. Credit will be applied at the rate of five credit hours for every course taught, not to exceed 15 hours per renewal period. A licensee may complete the ethics requirement in §781.508(a) of this title only through teaching a course specifically designated as an ethics course.

(4) A field instructor for a social work intern will be granted five credit hours for each college semester completed, not to exceed 20 credit hours per renewal period.

(5) A presenter of a continuing education program or an author of a published work, which imparts social work knowledge and skills, may be granted five credit hours for each original or substantially revised presentation or publication, not to exceed 20 credit hours per renewal period.

(6) A licensee may carry over to the next renewal period up to 10 credit hours earned in excess of the continuing education renewal requirements. Continuing education earned during the licensee's birth month may be used for the current renewal or for the following year.

(7) Completing the jurisprudence examination shall count as three hours of the continuing education requirement in ethics and social work values, as referenced in §781.508(b) of this title.

§781.515. Continuing Education Documentation.

(a) Licensees must verify their credit hours on the board's license renewal form. Failing to submit the form with completed continuing education hours is grounds to deny the **application for license renewal.**

(b) Licensees must maintain documentation of their continuing education for three years.

(c) The board will review a random sample of applications for quality control. A licensee selected for review will be notified by mail and required to submit acceptable documentation of the continuing education listed on the continuing education report form. Documentation must specify the subject, date(s), credit hours, name of sponsor, board-issued sponsor approval number or other identifying sponsor information (if applicable) and board contact information. The licensee shall include such items as copies of attendance certificates or other attendance verification from the provider; grade reports or transcripts verifying that a college course is completed; letters from deans, directors, department chairs, or their representatives verifying a field instructor assignment; letters from program sponsors verifying the licensee presented continuing education; or copies of continuing education programs or other documentation verifying that the continuing education was relevant to social work when the program does not have an assigned provider number.

§781.516. Requirements of Supervisor Training Course Providers.

(a) A supervisor training course provider must be an approved continuing education provider or exempt under §781.511 of this title (relating to Requirements for Continuing Education Providers) to apply for approval as a supervisor training course provider. A provider shall apply on board forms.

(b) A supervisor training course provider must be approved under this section to offer supervisor training courses. The board shall maintain a list of supervisor training course providers on the board's website.

(c) The applicant shall certify on the application that all supervisor training courses that the provider offers for board credit will comply with the criteria in this section; and that the supervisor training course provider will be responsible for verifying attendance at each program and provide an attendance certificate as set forth in this section.

(d) A supervisor training course offered for board credit shall enhance recipients' professional knowledge and skills about supervision so that they can successfully fulfill the supervision duties the board expects board-approved supervisors to complete. The course shall be developed and presented by persons who are appropriately knowledgeable in supervision theories, strategies, and techniques. It shall specify the course objectives, course content, and teaching methods.

(e) The supervisor training course provider must document that each course complies with this section and maintain that documentation for a period of three years.

(f) To be approved, an applicant must demonstrate compliance with the board's course content guidelines. The board will review the supervisor training course provider application and notify the applicant of any deficiencies or grant approval. If the applicant is not already a board-approved continuing education provider, the applicant will be notified of the deficiency of this requirement. Once minimum requirements are met, the board-approved supervisor training course provider shall indicate the supervisor training course provider approval number all attendance certificates.

(g) Each supervisor training course shall allow participants to formally evaluate the course using an evaluation instrument. The provider and the instructor shall review the evaluation outcomes and revise subsequent programs accordingly. The supervisor training course provider shall keep all evaluations for three years and allow the board to review the evaluations on request.

(h) A supervisor training course provider must submit updated curricula every six years in order to maintain approval as a provider.

(i) The supervisor training course provider is responsible for providing each training participant with a legible attendance certificate when the training ends, verifying the name, date, and place of the training; the provider's name, approval number, and signature; and board contact information.

(j) The supervisor training course provider shall maintain attendance records for not fewer than three years.

(k) The supervisor training course provider is responsible for assuring that only licensees who attend the complete training and have demonstrated that they met training objectives receive credit for the training.

§781.517. Evaluation of Supervisor Training Course Providers.

(a) The board may evaluate any approved supervisor training provider at any time to ensure compliance with requirements of this section.

(b) Department staff shall audit approved supervisor training course providers regularly, reviewing the supervisor training provider's documentation regarding compliance with §781.516 of this title (relating to Requirements of Supervisor Training Course Providers), and report audit results to the appropriate board committee.

(c) Department staff shall notify supervisor training providers of the audit results. If the provider is not compliant, the provider shall implement a correction plan to address audit deficiencies, and will submit documentation verifying corrective action to the board within 30 days of the date of the board's notice that corrective action is necessary.

(d) The board shall review the approval status of supervisor training providers who are not in compliance and who have not taken corrective action.

(e) The board may rescind the approval status of a supervisor training provider.

(f) Complaints regarding supervisor training courses offered by approved providers may be submitted in writing to the executive director. Complaints may result in an audit and may be referred to the board for appropriate action.

(g) A supervisor training course provider whose approval status has been rescinded by the board may reapply on or after the 91st day following the board action. The provider must document corrective action and demonstrate that the provider's courses will be presented in compliance with §781.516 of this title.

(h) In order to get board credit of supervisor training to meet requirements of §781.404 of this title (relating to Recognition as a Board-approved Supervisor and the Supervision Process), a licensee must take that training from a provider approved in good standing with the board.

SUBCHAPTER F.
COMPLAINTS AND VIOLATIONS.

§781.601. Purpose. This subchapter sets out grounds for denying an application or disciplining a licensee and procedures for reporting alleged violations of the Act or this chapter.

§781.602. Disciplinary Action and Notices.

(a) The board shall revoke, suspend, suspend on an emergency basis, or deny a license or specialty recognition, place on probation a person whose license or specialty recognition has been suspended, or reprimand a person with a license or specialty recognition for:

(1) violating any provision of the Act or any board rule;

(2) failing to cooperate in a complaint investigation filed under this chapter's provisions;

(3) failing to comply with any board-ordered action;

(4) exhibiting physical or mental incompetency, as determined by the board, to perform social work;

(5) providing false or misleading information to the board regarding qualifications for licensure or renewal or in response to a board inquiry;

(6) violating any of the grounds described in the Act, §505.451;

(7) violating the law or rules of another health or mental health profession resulting in disciplinary action by that profession's regulatory body;

(8) violating the law, rules, or policies of a governmental agency related to social work practice resulting in disciplinary action by the governmental agency;

(9) violating a board order; or

(10) engaging in conduct that discredits or tends to discredit the social work profession.

(b) Prior to instituting formal disciplinary proceedings against a licensee, the board shall notify the licensee in writing by certified mail, return receipt requested or registered mail. The notice of violation letter will include the facts or conduct alleged to warrant revocation, suspension, or reprimand and the severity level from the sanction guide. The licensee shall be given the opportunity, as described in the notice, to show compliance with all requirements of the Act and this chapter, including the opportunity for an informal conference. A licensee's opportunity for an informal conference under this subsection shall satisfy the requirement of the APA, §2001.054(c).

(c) The licensee or applicant must request, in writing, a formal hearing within 10 days of receiving the notice, or the right to a hearing shall be waived and the license or specialty recognition shall be denied, revoked, suspended, probated, or reprimanded.

(d) Receipt of a notice under subsection (b) or (c) of this section is presumed to occur on the tenth day after the notice is mailed to the last address known to the board unless another date is reflected on a United States Postal Service return receipt or other official receipt.

(e) The licensee will be considered to have received notice of board disciplinary action if the notice is mailed to the last address provided in writing to the board by the licensee.

(f) If a notice is mailed to the last known address of the licensee, and the licensee fails to respond to the notice within 10 days from receipt of the notice, the licensee will be considered to have waived his or her right to a hearing in the matter.

(g) If it appears to the board that a person who is not licensed under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to social work practice, the board, after notice and opportunity for a hearing as described in this section, may issue a cease and desist letter prohibiting the person from engaging in the activity. A violation of an order under this subsection constitutes grounds for the board to impose an administrative penalty.

§781.603. Complaint Procedures.

(a) A person wishing to report that a licensee has allegedly violated the Act or this chapter may notify the department staff in writing, by telephone, by email or in person.

(b) The department staff is responsible for logging in complaints as they are received and investigating them.

(c) The board chairperson will appoint an Ethics Committee to review the department's investigations, determine if licensees have violated the law or rules, and decide what sanctions, if any, to impose.

(d) The board office shall not accept a complaint if the official form is not filed within

five years of the date that the professional-client relationship involved in the alleged violations ended, or five years from the date the complainant learned that the behavior of the social worker violated the rules and/or law. If the client was a minor at the time of the alleged violation, this time limitation does not begin until the client reaches the age of 18 years. A complainant shall be notified of the non-acceptance of untimely complaints.

(e) The board may waive the time limitation in cases of egregious acts or continuing threats to public health or safety when presented with specific evidence that warrants such action.

(f) Department staff will acknowledge in writing that they have received the complaint.

(g) The executive director initially reviews the complaint to determine jurisdiction. If a complaint appears to be within the board's jurisdiction, the executive director shall decide whether to authorize sending a copy of the complaint to the respondent and requesting a response, which may include but not be limited to requesting that a copy of the client's records be attached to the response. If the executive director does not authorize written notification of the respondent, the complaint will be referred for an investigation and the assigned investigator will determine whether the respondent will be notified by letter, phone call, site visit, or some other appropriate means. If the complaint is against a person licensed by another board, the department staff will forward the complaint to that board not later than the 15th day after the date the agency determines that the information shall be referred to the appropriate agency as provided in Government Code, Chapter 774, relating to exchange of information between regulatory agencies.

(h) If the allegations clearly do not fall within the board's jurisdiction, the executive director may consult with both the attorney for the board as well as the board chair or his/her designee, and if all agree, the executive director may close the complaint and will present the case to the Ethics Committee at the committee's next meeting. The Ethics Committee retains the right to request full disclosure of any case closed and order a comprehensive hearing of the complaint.

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

(1) evaluate the threat to public health and safety documented by the complaint;

(2) establish an appropriate plan and schedule for its investigation to be noted in the complaint file;

(3) instruct agency staff to send a notice to the complainant acknowledging that the complaint was received, unless the complaint was anonymous; and

(4) report the status of all continuing investigations to the complainant and the licensee or applicant periodically.

(j) The department staff will begin investigating the complaint by requesting statements and evidence from all parties; by referring the investigation to a department investigator; or by enlisting the service of a private investigator. If using a private investigator is appropriate, department staff will so inform the board.

(k) If an investigation uncovers evidence of a criminal act, the executive director or the Ethics Committee will determine whether notifying law enforcement is appropriate, and if so, give such approval to the appropriate department staff for implementation. The complaint process will continue to its completion unless a law enforcement agency requests in writing that action be delayed, clarifying the reason for delay, and the date by which that agency plans to take action on the case. The executive director will request the law enforcement agency provide timely updates on the case progress.

(l) The executive director or the investigator assigned to the case will notify the subject of the complaint of the allegations either in writing, by phone or in person. The subject is required to provide a sworn response to the allegations within fifteen days of that notice. Failure to respond to the allegations within the 15 days is evidence of failure to cooperate with the investigation and subject to disciplinary action.

(m) The Ethics Committee will review complaints to ensure that complaint investigations are being handled in a timely manner and that complaints are not dismissed without appropriate consideration. The Ethics Committee will also ensure that any person who files a complaint has an opportunity to explain the allegations made in the complaint, and that any issues related to complaints which arise under the Act, or this chapter, are resolved.

(n) The Ethics Committee shall determine whether to dismiss a complaint as unsubstantiated, whether a violation exists, and what disciplinary action to take.

(o) The Ethics Committee may resolve pending complaints in which no violation is found or substantiated, or in which a violation is found, but the violation does not seriously affect the health and safety of clients or other persons, with actions which are not considered formal disciplinary actions. These include: issuance of an advisory notice, warning letter; or informal reminder; issuance of a "Conditional Letter of Agreement;" and/or other actions as deemed appropriate by the Ethics Committee. The licensee is not entitled to a hearing on the matters set forth in the notice, letter, reminder, "Conditional Letter of Agreement," or other action but may submit a written response to be included in the complaint record. Such actions by the Ethics Committee may be introduced as evidence in any subsequent disciplinary action involving acts or omissions after receipt of the notice, letter, reminder, "Conditional Letter of Agreement," a cease and desist letter, or other action which does not involve a formal disciplinary action.

(1) An advisory notice, warning letter or informal reminder. The Ethics Committee may resolve pending complaints by issuance of a formal advisory notice, warning letter, or informal reminder informing licensees of their duties under the Act or this chapter, whether the conduct or omission complained of appears to violate such duties, and whether the board has a concern about the circumstances surrounding the complaint.

(2) A "Conditional Letter of Agreement." The Ethics Committee may resolve pending complaints by issuance of a "Conditional Letter of Agreement" informing licensees of their duties under the Act or this chapter, whether the conduct or omission complained of appears to violate such duties, and creating board-ordered conditions for the long-term resolution of the issues in the complaint. This "Conditional Letter of Agreement" specifies the immediate disposition of the complaint. The licensee is issued the "Conditional Letter of Agreement" by the Ethics Committee, executive director, or designee; a signature of agreement by the licensee is not required. If the licensee fails to comply with all the board-ordered conditions in the specified time frame outlined in the "Conditional Letter of Agreement," the licensee will not have a right to a subsequent review of the issues in the original complaint by the Ethics Committee, but rather, a new complaint will be opened for the original violation(s), and notice of the violation(s) will be issued to the licensee, proposing to impose a formal disciplinary action as the resolution. The disciplinary action proposed for failure to comply with a "Conditional Letter of Agreement" will be a reprimand, unless otherwise specified by the Ethics Committee. "Procedures for Revoking, Suspending, Probating or Denying a License,

or Reprimanding a Licensee" shall apply when a formal disciplinary action is proposed.

(3) Other actions. The Ethics Committee may resolve pending complaints with other actions, including issuance of a cease and desist letter, which are not considered formal disciplinary actions.

(p) If the complaint is not resolved by the committee, the committee may recommend that disciplinary action or other appropriate action as authorized by law be taken, including injunctive relief or civil penalties. If the investigation produces evidence of possible violations not described in the complaint, a separate complaint will be opened regarding such alleged violations. Notice will be given to the licensee that the new complaint will be heard at a subsequent meeting of the Ethics Committee. The committee may proceed with the action regarding the original complaint.

(q) If no violation exists or the complaint is dismissed as unsubstantiated, the department will notify the complainant and the licensee or applicant in writing of the finding. The notice may include a statement of issues and recommendations that the committee wishes the subject of the complaint to consider.

(r) If the executive director receives credible evidence that a licensee is engaging in acts that pose an immediate, significant threat of physical or emotional harm to the public, the executive director shall consult with the board chair or Ethics Committee members to authorize an emergency suspension of the license.

(s) Once a complaint has been dismissed by the committee, it cannot be reopened. If new significant information emerges about the circumstances of the dismissed complaint, a new complaint may be opened.

§781.604. Ethics Committee Meetings and Policy.

(a) The Ethics Committee will meet regularly to review and recommend action on complaints filed against social workers. Additionally, as requested by the respondent, the committee will hold informal conferences to review previous committee actions.

(b) Department staff will send an agenda and completed reports of complaint investigations to committee members approximately two weeks prior to each meeting. The agenda will list all items to be considered by the committee. Complaints will be listed on the agenda by the assigned complaint tracking number.

(c) Persons who are not committee members may observe committee work unless the committee enters into executive session for legal consultation. Committee members, staff, the licensee against whom the complaint is filed, and the person filing the complaint may participate in discussing a complaint before the committee. The committee chair or committee by vote may impose time limitations on discussion.

(d) Department staff will report on all completed investigations to committee members, including investigation results and a summary of staff recommendations for disposition.

(e) The committee will determine a complaint's validity based on the evidence and information. The committee may determine that the evidence does or does not support a finding of a violation of licensing law or rules, or the committee may request additional information for later review. If the committee finds that a social worker has violated licensing law or rules, the committee will consider the established policy guidelines and other relevant factors in recommending disciplinary action.

(f) All parties to a complaint will be notified of the committee's findings and recommendations.

§781.605. Informal Conferences.

(a) Informal conferences will be scheduled as needed.

(b) The board's legal counsel or an attorney from the department's Office of General Counsel shall attend each informal conference.

§781.606. Licensing of Persons with Criminal Backgrounds.

(a) The board may take action against a licensee or deny a license pursuant to Texas Occupations Code, Chapter 53, concerning felony or misdemeanor convictions, or the Act, §505.451(12), concerning felony convictions.

(b) The following felonies and misdemeanors relate to licensure as a social worker because these criminal offenses indicate a tendency to be unable to perform as a social worker: a violation of the Act; failure to report child abuse or neglect; a misdemeanor involving deceptive business practices; a conviction of assault or sexual assault, and the felony offense of theft. Further, the board will also consider other misdemeanors or felonies as possibly indicating an inability to perform appropriately as a social worker.

(c) An applicant or licensee with a criminal background may provide or be requested to provide documentation of rehabilitation for the board's consideration.

(d) A person may submit documentation of rehabilitation, including court records and a summary of the arresting event and the conditions which led to the arrest. Further, a person may submit documents related to a sentence imposed by the court, a sentence completed, or probation or parole successfully completed. It is also appropriate to submit information attesting to subsequent good behavior, letters from employers or others familiar with the person's accomplishments after being convicted, and any other information related to the applicant's qualifications for licensure.

(e) The licensee may be referred to the appropriate board committee for review and determination of eligibility or monitoring requirements. Licensees referred to the board are afforded due process under the APA.

§781.607. Suspension, Revocation, or Non-renewal.

(a) If the board suspends a license or specialty recognition, the suspension shall remain in effect for the period of time stated in the order or until the board determines that the reason for the suspension no longer exists.

(b) While on suspension, the licensee shall comply with this chapter's renewal requirements, including paying fees and completing continuing education. However, the suspension remains in effect pursuant to subsection (a) of this section.

(c) Upon revocation, suspension or non-renewal of a license, a licensee shall return his or her license to the board.

(d) The board may refuse to renew the license of a person who fails to pay an administrative penalty imposed in accordance with the Act unless the enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

§781.608. Informal Disposition.

(a) If a licensee agrees to the disciplinary action proposed by the Ethics Committee or recommended through an informal conference, the board office or board legal counsel shall prepare an agreed order, including agreed findings of fact and conclusions of law, and forward it to the licensee or applicant. An uncontested Notice of Violation executed and signed by the respondent may serve as the basis for a board order.

(1) The licensee or applicant shall execute the order and return the signed order to the board office within 10 days of receiving the order. If the licensee or applicant fails to return the signed order within 10 days, the

inaction shall constitute rejection of the recommendations.

(2) If the licensee or applicant signs and accepts the recommendations, the agreed order shall be submitted to the entire board for its approval. Placing the agreed order on the board agenda constitutes only a recommendation for board approval.

(3) If the licensee or applicant rejects the proposed recommendations, the matter shall be referred to the executive director for appropriate action.

(b) The board shall notify the licensee or applicant of the date, time, and place of the board meeting at which the proposed agreed order will be considered. Attendance by the licensee or applicant is voluntary.

(c) Upon an affirmative majority vote, the board shall enter an agreed order approving the accepted recommendations. The board may not change the terms of a proposed order but may only approve or disapprove an agreed order unless the licensee or applicant is present at the board meeting and agrees to other terms proposed by the board.

(d) If the board does not approve a proposed agreed order, the licensee or applicant and the complainant shall be so informed. The matter shall be referred to the executive director for other appropriate action.

(e) A proposed agreed order is not effective until the full board has approved the agreed order. The order shall then be effective in accordance with the APA.

(f) The board may order a license holder to pay the consumer a refund as an informal conference agreement provides, instead of or in addition to imposing an administrative penalty. The amount of refund ordered in an informal conference agreement may not exceed the amount the consumer paid to the license holder for a service regulated by the Act and this title. The board may not require payment of other damages or estimate harm in a refund order.

§781.609. Monitoring of Licensees.

(a) The executive director shall maintain a disciplinary action tracking system.

(b) Each licensee who has had disciplinary action taken against his or her license or specialty recognition shall be required to submit regularly scheduled reports.

(c) The executive director shall review these monitoring reports resulting from formal disciplinary action and notify the Ethics Committee if the licensee is not meeting the disciplinary requirements. The Ethics Committee may consider more severe disciplinary proceedings if the licensee does not comply.

(d) Regardless of whether the board has received a formal complaint, the board may require monitoring of a licensee who may pose a potential threat to public health or safety because of drug or alcohol use, mental or physical health concerns, criminal activity or allegations, and other issues which may adversely affect the public. The board may require a licensee on monitoring status to comply with conditions the board specifies. Though such monitoring is not considered a formal disciplinary action, the licensee must comply fully with the board's order or face possible formal disciplinary action levied by the board.

(e) Participants of the AMEC program in accordance with §781.411 of this title (relating to Temporary License) shall be considered to be on monitoring status until released by the board and issued a regular license.

§781.610. Due Process Following Violation of an Order.

(a) A licensee accused of violating the terms of an Order is not entitled to a formal hearing on the matter, but is entitled to a degree of due process, as follows.

(b) When it appears that the licensee has violated a term of the Order, the department

will send a Notice of Violation of the Order to the licensee. The Notice shall include:

(1) a brief statement of the acts or omissions believed to constitute a violation, including information sufficient to apprise the licensee about the date and nature of the violation;

(2) a statement that, within 10 days of receiving the Notice, the licensee must respond in writing to explain why the licensee believes he or she did not violate the Order, or if such violations did occur, why the disciplinary action proposed in the Order should not be imposed; and

(3) a statement in large bold type that, if the licensee fails to respond, the disciplinary action described in the Order will be imposed, and further that additional disciplinary actions may be taken if the conduct constituting the violation of the Order also violates a board rule or statute: "FAILURE TO RESPOND. YOUR FAILURE TO RESPOND, WILL BE CONSIDERED A WAIVER OF YOUR RIGHT TO A HEARING. THE FACTUAL ALLEGATIONS IN THIS NOTICE WILL BE DEEMED ADMITTED AS TRUE AND THE PROPOSED DISCIPLINARY ACTION WILL BE IMPOSED BY DEFAULT. ADDITIONAL DISCIPLINARY ACTIONS MAY BE TAKEN."

(c) When the department receives the licensee's written response, the executive director and board chair will review the response and decide whether there are sufficient grounds to find that the Order was violated and, if so, whether the disciplinary action provided in the Order should be imposed.

(d) The executive director and the board chair shall write and submit their decision to the board for final action.

(e) A decision to impose or to forego imposing disciplinary action under the terms of the Order does not preclude the board from initiating disciplinary action independent of the Order if the alleged conduct may constitute a violation of statute or rules.

SUBCHAPTER G. FORMAL HEARINGS.

§781.701. Purpose. These rules, which cover the hearing procedures and practices available to persons or parties who request formal board hearings, supplement the contested case provisions outlined in the Texas Government Code, Chapter 2001, Administrative Procedure Act (APA), and the hearing procedures of the State Office of Administrative Hearings (Texas Government Code, Chapter 2003, and Rules of Procedure, 1 Texas Administrative Code, Chapter 155).

§781.702. Notice.

(a) Proper notice of contested case proceedings before the State Office of Administrative Hearings, means notice sufficient to meet the provisions of the Texas Government Code, Chapter 2001 and the State Office of Administrative Hearings, Rules of Procedure, 1 Texas Administrative Code, Chapter 155.

(b) For purposes of informal conferences, proper notice shall include the name and style of the case, the date, time, and place of the informal conference, and a short statement of the purpose of the conference.

(c) The following statement shall be attached to the notice of hearing or notice of informal conference, in bold, capital letters of at least 10 point type: "FAILURE TO APPEAR. YOUR FAILURE TO APPEAR, IN PERSON OR BY REPRESENTATIVE, ON THE ABOVE DATE, TIME, AND PLACE, WILL BE CONSIDERED A WAIVER OF YOUR RIGHT TO A HEARING. THE FACTUAL ALLEGATIONS IN THIS NOTICE WILL BE DEEMED ADMITTED AS TRUE AND THE PROPOSED DISCIPLINARY ACTION WILL BE GRANTED BY DEFAULT."

§781.703. Default.

(a) In this section, "default" means the respondent's failure to appear in person, by legal representative, or by telephone on the day and at the time set for hearing in a contested case or informal conference, or in

accordance with the notice of hearing or notice of informal conference.

(b) Remedies available upon default in a contested case before the State Office of Administrative Hearings (SOAH). The Administrative Law Judge (ALJ) shall proceed in the party's absence and such failure to appear shall entitle the department to seek informal disposition as provided by the Texas Government Code, Chapter 2001. The ALJ shall grant any motion by the department to remove the case from the contested hearing docket and allow for informal disposition by the board.

(c) Remedies available upon default in an informal conference. The board may proceed to make such informal disposition of the case as it deems proper, as if no request for hearing had been received.

(d) The board may enter a default judgment by issuing an order against the defaulting party in which the factual allegations in the notice of violation or notice of hearing are deemed admitted as true without the requirement of submitting additional proof, upon the offer of proof that proper notice was provided to the defaulting party.

(e) Motion to set aside and reopen. The respondent's timely motion to set aside the default order and reopen the record may be granted if the respondent establishes that his/her failure to attend the hearing, rather than being intentional or the result of conscious indifference, was in fact due to mistake, accident, or circumstances beyond the respondent's control.

(1) A motion to set aside the default order and reopen the record shall be filed with the board prior to the board's order becoming final, pursuant to the provisions of the Texas Government Code.

(2) A motion to set aside the default order and reopen the record is not a motion for rehearing and is not considered a substitute for a rehearing motion. Filing a motion to set aside the default order and reopen has no effect on either the statutory time periods for filing a motion for rehearing, or on the time frame for ruling on a rehearing motion, as provided in the Texas Government Code.

(f) This subsection also applies to cases where proof exists that notice of hearing was served at the defaulting party's last known address as shown on the department's records, with no evidence that the defaulting party or the defaulting party's agent actually received notice. In that situation, the default procedures described in subsection (c) of this section may be used.

§781.704. Action after Hearing.

(a) Reopening a hearing for new evidence. If new evidence is offered which was unobtainable or unavailable at the time of the hearing, and if the board deems that this evidence is necessary to make a fair, proper determination of the case, the board may reopen a hearing, including the new evidence as part of the record. The reopened hearing will be limited to only such new evidence. All previously designated parties will be served official notice of the new hearing.

(b) Final orders or decisions. The board or its designee will render the board's final order or decision, in writing. The decision will state the findings of fact and conclusions required by law, either in the body of the order, by attachment, or by reference to an ALJ's proposal for decision. All final orders will be signed by the board chair, and his/her designee, unless otherwise permitted by statute or by these actions.

(c) Motion for rehearing. A motion for rehearing shall be governed by the APA or other pertinent statute and shall be filed with the board.

(d) Appeals. All appeals from final board orders or decisions shall be governed by the APA or other pertinent statute and shall be addressed to the board.

SUBCHAPTER H. SANCTION GUIDELINES.

§781.801. Purpose. The schedule of sanctions is adopted by rule pursuant to the Act, §505.254. The schedule is intended to be used by the Ethics Committee as a guide in assessing sanctions for violations of the Act or this chapter. The schedule is also intended to serve as a guide to administrative law judges, and as a written statement of applicable rules or policies of the board pursuant to the Government Code. The failure of an administrative law judge (ALJ) to follow the schedule may serve as a basis to vacate or modify an order pursuant to the Government Code. No two disciplinary cases are the same. This schedule is not intended as a substitute for thoughtful consideration of each individual disciplinary matter.

§781.802. Relevant Factors.

(a) When a licensee has violated the Act or this chapter, three general factors combine to determine the appropriate sanction: the licensee's degree of culpability; the harm caused or posed; and appropriate deterrence.

(b) The board and ALJ may consider special factors, but the licensee is responsible for bringing these exonerating factors to light for the board or ALJ to consider.

(1) The seriousness of the violation can be a special factor. The board or ALJ may consider the nature and extent of harm caused or risk posed to the public health, safety, or welfare. How frequently the violation occurred and over what time period are also important factors.

(2) The board and ALJ can also examine the nature of the violation, as determined by the relationship between the licensee and the person harmed or exposed to harm. The vulnerability of the person harmed or exposed to harm is an important factor. Determining the licensee's culpability is affected by whether the violation was intentional or premeditated; reflected the licensee's blatant disregard or gross neglect; resulted from error or inadvertence; and/or reflects the licensee's lack of character, integrity, trustworthiness, or honesty.

(3) Another special set of factors deal with the licensee's personal accountability, including the licensee's capacity to admit wrong-doing and accept responsibility; whether the licensee shows an appropriate degree of remorse or concern; what efforts the licensee has taken to ameliorate harm or make restitution; how the licensee has instituted a plan to ensure that future violations do not occur; and how well the licensee cooperated with any investigations and requests for information.

(4) How to prevent violations is another set of factors worthy of consideration. Determining the sanction(s) required to deter the licensee from engaging in similar violations and to ensure that the licensee abides by the other provisions of the Act or this chapter; and sanctions which can effectively deter other licensees from making similar violations are considerations that shed light on the appropriate sanction(s).

(5) Other miscellaneous factors which affect decisions on sanctions include the licensee's professional experience at time of violation; whether the licensee has previously or subsequently violated the law and rules; how the licensee has conducted himself or herself, particularly in the work setting, prior to and following the violation; any character references; and any other factors justice may require.

§781.803. Severity Level and Sanction Guide. The following severity levels and sanction guides are based on the relevant factors in §781.802 of this title (relating to Relevant Factors):

(1) Level One--Revocation of license. These violations evidence the licensee's intentional or gross misconduct, cause or pose a high degree of harm to the public, and/or require severe punishment to deter the licensee, or other licensees. The fact that a license is

ordered revoked does not necessarily mean the licensee can never regain licensure. The board may also impose an administrative penalty of not less than $250 or more than $5,000 for each Level One violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a financial penalty.

(2) Level Two--Extended suspension of license. These violations involve less misconduct, harm, or need for deterrence than Level One violations, but require termination of licensure for a period of not less than one year. The board may also impose an administrative penalty of not less than $250 or more than $4,000 for each Level Two violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(3) Level Three--Moderate suspension of license. These violations involve less misconduct, harm, or need for deterrence than Level Two violations, but require termination of licensure for some period of time. The board may also impose an administrative penalty of not less than $250 or more than $3,000 for each Level Three violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(4) Level Four--Probated suspension of license. These violations do not involve enough harm, misconduct, or need for deterrence to warrant termination of licensure, yet are severe enough to warrant monitoring of the licensee to ensure future compliance. Possible probationary terms are set out as in §781.806 of this title (relating to Probation) and may be ordered as appropriate. The board may also impose an administrative penalty of not less than $250 or more than $2,000 for each Level Four violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(5) Level Five--Reprimand. These violations involve minor misconduct not directly involving the health, safety or welfare of the particular member of the public at issue. The board may also impose an administrative penalty of not less than $250 or more than $1,000 for each Level Five violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

§781.804. Other Disciplinary Actions. The Ethics Committee or executive director, as appropriate, may resolve pending complaints by issuing formal advisory letters to inform licensees of their duties under the Act or this chapter, and whether the conduct or omission relevant to the complaint appears to violate such duties. Advisory letters may be introduced as evidence in any subsequent disciplinary action involving the licensee's acts or omissions after the licensee receives the advisory letters. The Ethics Committee or executive director, as appropriate, may also issue informal reminders to licensees regarding other licensing matters. The licensee is not entitled to a hearing on the matters addressed in the formal advisory letter or informal reminders, but may write a response to be included with such letters in the social worker's licensing records.

§781.805. State Office of Administrative Hearings. In cases requiring a hearing, the Ethics Committee, through the executive director, will issue a notice of violation letter to the licensee, and state the severity level and the recommended sanction, which will reflect the Ethics Committee's judgment based on the information available at that time. The evidence presented at a hearing could indicate a greater or lesser sanction.

§781.806. Probation. If probation is ordered or agreed to, the following terms may be required.

(1) General conditions of probation.

(A) The licensee shall obey all federal, state and local laws and rules governing social work practice in this state.

(B) Under penalty of perjury, the licensee shall submit periodic reports as the board requests on forms provided by the board, stating whether the licensee has complied with all conditions of probation.

(C) The licensee shall comply with the board's probation monitoring program.

(D) The licensee shall appear in person for interviews with the board or its designee at various intervals and with reasonable notice.

(E) If the licensee leaves this state to reside or to practice outside the state, the licensee must notify the board in writing of the dates of departure and return. Periods of practice outside this state will not count toward the time of this probationary period. The social work licensing authorities of the jurisdiction to which the licensee is moving or has moved must be promptly notified of the licensee's probationary status in this state. The probationary period will resume when the licensee returns to the state to reside or practice.

(F) If the licensee violates probation in any respect, the board, after giving formal notice and the opportunity to be heard, may revoke the licensee's license and specialty recognition or take other appropriate disciplinary action. The period of probation shall be extended until the matter is final.

(G) The licensee shall promptly notify in writing all settings in which the licensee practices social work of his or her probationary status.

(H) While on probation, the licensee shall not act as a supervisor or gain any hours of supervised practice required for any board-issued license.

(I) The licensee is responsible for paying the costs of complying with conditions of probation.

(J) The licensee shall comply with the renewal requirements in the Act and the board rules.

(K) A licensee on probation shall not practice social work except under the conditions described in the probation order.

(L) A licensee who is required to be supervised as a condition of initial licensure, continued licensure, or disciplinary action must:

(i) submit one supervisory plan for each practice location to the board for approval by the board or executive director/designee within 30 days of initiating supervision;

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

(iii) ensure that the supervisor submits reports to the board on a schedule determined by the board. In each report, the supervisor must address the supervisee's performance, how closely the supervisee adheres to statutes and rules, any special circumstances that led to the imposition of supervision, and recommend whether the supervisee should continue licensure. If the supervisor does not recommend the supervisee for continued licensure, the supervisor must provide specific reasons for not recommending the supervisee. The board may consider the supervisor's reservations as it evaluates the supervision verification the supervisee submits; and

(iv) notify the board immediately if there is a disruption in the supervisory relationship or change in practice location and submit a new supervisory plan within 30 days of the break or change in practice location.

(2) Special Conditions. At the board's discretion, one or more special conditions of probation may appear in the board's disciplinary order that places a licensee on probation. Those special conditions and example wording are described in the following subparagraphs of this paragraph.

(A) Actual Suspension. As part of probation, the license is suspended for a period of (example: one) year beginning the effective date of this order.

(B) Drug/Medication Use. The licensee shall abstain completely from using or possessing controlled substances and dangerous drugs as defined by law, or any drugs requiring a prescription except those medications which a licensed physician lawfully prescribes for a bona fide illness or condition.

(C) Alcohol. The licensee shall abstain completely from using alcoholic beverages.

(D) Body Fluid or Hair Follicle Testing. The licensee shall immediately submit to appropriate testing, at the licensee's cost, upon the board's written request or order.

(E) Rehabilitation Program. Within (example: 30) days of the effective date of the order, the licensee shall submit to the board for its prior approval a rehabilitation program in which the licensee shall participate at least weekly for at least (example: 50) weeks of the calendar year for the duration of probation. In the periodic reports to the board, the licensee shall document continuing participation in this program, including the dates of the weekly meetings attended and the address of each meeting. At the end of the required period, the rehabilitation program director shall document to the board that the license has completed the program and has made arrangements for appropriate follow-up.

(F) Community Service. Within (example: 60) days of the effective date of the order, the licensee shall submit to the board for its prior approval a community service program in which the licensee shall provide free regular social work services to a community or charitable facility or agency for at least (example: 20) hours a month for the first (example: 24) months of probation.

(G) Medical Evaluation Treatment. Within (example: 30) days of the effective date of the order, and periodically thereafter as the board or its designee may require, the licensee shall undergo a medical evaluation by a licensed physician who shall furnish a medical report to the board or its designee. If the board or its designee requires the licensee to undergo medical treatment, the licensee shall, within (example: 30) days of the requirement notice, submit to the board for its prior approval the name and qualifications of a physician of the licensee's choice. Upon the board's approval of the treating physician, the licensee shall undergo and continue medical treatment until further notice from the board. The licensee shall have the treating physician submit periodic reports to the board as the board directs. In cases where the evidence demonstrates that medical illness or disability was a contributing cause of the violations, the licensee shall not engage in the practice of social work until the board notifies the licensee that the board has determined that the licensee is medically fit to practice safely.

(H) Psychosocial/Psychological/Psychiatric Evaluation. Within (example: 30) days of the effective date of the decision, and periodically thereafter as required by the board or its designee, the licensee shall undergo evaluation by a licensed professional (social worker, psychologist, or psychiatrist) selected by the board. The evaluator shall furnish a written report to the board or its designee regarding the licensee's judgment and ability to function independently and safely as a social worker and any other information the board may require. The licensee shall pay all evaluation costs. The licensee shall execute a release of information authorizing the evaluator to

release all information to the board. The board will treat the evaluation as confidential. If the evidence demonstrates that physical illness or mental illness was a contributing cause of the violations, the licensee shall not engage in the practice of social work until the board determines that the licensee is medically fit to practice safely and so notifies the licensee.

(I) Ethics Course. Within (example: 60) days of the effective date of the order, the licensee shall select and submit to the board or its designee for prior approval a course in (example: ethics), which the licensee shall take and successfully complete as directed by the board.

(J) Supervision of the Licensee's Practice. Within (example: 30) days of the effective date of this order, the licensee shall submit to the board for its prior approval the name and qualifications of three proposed supervisors. Each proposed supervisor shall be licensed in good standing and be a board-approved supervisor with expertise in the licensee's field of practice. The supervisor must review and maintain a copy of the board order and must ensure that the supervisory content relates to the licensee's rehabilitation and fitness for practice. The supervisor shall submit to the board quarterly written reports (or other time periods the board may specify), verifying that the supervisor and supervisee have met together in the same geographical location to engage in required supervision of at least one hour per week (or other time periods the board may specify), in individual face-to-face meetings, and including an evaluation of the licensee's performance. The licensee will bear all supervision costs and is responsible for assuring that the required reports are filed in a timely fashion. The licensee shall give the supervisor access to the licensee's fiscal and client records. The supervisor shall be independent, with no current or prior business, professional or personal relationship with the licensee. The licensee shall not practice until the board has approved the designated supervisor and so notified the licensee. If the supervisor ceases supervision, the licensee shall not practice until the board has approved a new supervisor. The supervisor and licensee shall inform the board in writing within 10 business days of supervision termination, or any substantive change to the supervision plan; these changes are subject to the board's approval. Board-ordered supervision shall comply with relevant requirements of §781.404 of this title (relating to Recognition as a Board-approved Supervisor and the Supervision Process) as well as all other laws and rules.

(K) Psychotherapy. Within (example: 60) days of the effective date of the order, the licensee shall submit to the board for its prior approval the name and qualifications of one or more therapists of the licensee's choice. The therapist shall possess a valid license and shall have had no current or prior business, professional or personal relationship with the licensee. Upon the board's approval, the licensee shall undergo and continue treatment, for which the licensee pays all costs, until the board determines that no further psychotherapy is necessary. The licensee shall execute a release of information authorizing the therapist to divulge information to the board, and will have the treating psychotherapist submit periodic reports as the board requires. If the therapist believes the licensee cannot safely continue to render services, the therapists will notify the board immediately.

(L) Education. The licensee shall successfully complete any remedial education the board requires.

(M) Take and Pass Licensure Examinations. The licensee shall take and pass the licensure examination currently required of new applicants for the license possessed by

the licensee. The licensee shall pay the established examination fee.

(N) Peer Assistance Program. Within (example: 30) days of the effective date of the order, the licensee shall participate in a board-approved Peer Assistance Program in which the licensee shall participate at least (example: weekly) for at least (example: 50) weeks of the calendar year for the duration of probation. In the periodic reports to the board, the licensee shall document continuing participation in this program, including the dates of the meetings attended and the address of each meeting. The program shall also submit periodic progress reports and a final disposition report concerning whether the licensee completed the program and has made arrangements for appropriate follow-up. If a licensee does not complete the program, the board or board committee will determine an appropriate sanction.

(O) Other Conditions. The board may order other terms of probation as may be appropriate.

§781.807. Release from Probation.

(a) If the executive director believes that a licensee has satisfied the terms of probation, the executive director shall report to the Ethics Committee the status of the licensee's probation.

(b) If the executive director does not believe that the licensee has successfully completed probation, the executive director shall so notify the licensee and shall refer the matter to the Ethics Committee for review and recommendations. The licensee shall continue supervision and all requirements set forth in the board order, including periodic reports, until the Ethics Committee reviews and disposes of the case.

§781.808. Peer Assistance Program.

(a) The board shall establish criteria for a peer assistance program to help impaired professionals. Any peer assistance program wishing to serve licensees will submit evidence to the board that the program meets board criteria. The board may approve a peer assistance program, and may rescind such approval.

(b) The board has the authority to request that a licensee be evaluated by an appropriate substance abuse or mental health provider, and reserves the right to choose the provider. The licensee will pay the costs of such evaluation directly to the provider. The board may use the evaluation results in determining the licensee's fitness to practice.

(c) The board will recognize a board-approved peer assistance program to serve an impaired licensee if the board or a board committee approves such intervention or makes such intervention a condition of board-ordered sanction, as a condition of continued licensure, or if the licensee acknowledges impairment and requests peer assistance services.

(d) The board does not waive authority to conduct ethics investigations or impose sanctions against a licensee who is in a peer assistance program.

(e) Any licensee who enters evaluation, treatment, or monitoring by a board-approved peer assistance program is obligated to pay the costs incurred by this intervention directly to the peer assistance program. Neither the board nor the department will collect such costs from the licensee, nor serve as an intermediary for such payments.

(f) The board-approved peer assistance program shall submit reports of the licensee's progress in a time frame that the board specifies. The program shall also submit a final disposition report concerning whether the licensee completed the program. If the licensee does not complete the program, the board or board committee will determine an appropriate sanction.

(g) A licensee who knows or suspects that another licensee under the board's

jurisdiction is impaired by alcohol, chemical, or mental illness is required to report this information to the board within 30 days for investigation.